SENATE—*Friday, March 14, 1997*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Wait for the Lord, be of good courage, and He shall strengthen your heart; wait I say, on the Lord.—Psalm 27:14.

Let us pray.

Gracious Father, in this world of instant everything, fast foods, and shallow relationships, there are times we become very impatient when anything or anyone causes us to wait. We hate long lines, delayed flights, and tardy friends. Sometimes we get stressed out with exasperation. Then we worry about burnout. Neither the pout nor the shout seems to get things moving the way we want and when we want them.

Father, we confess that waiting is not easy for us. Often we turn to false hopes for quick, easy answers. Graciously You wait for us to realize that nothing or no one can be a source of lasting hope except You. It dawns on us that what we thought were waiting times are really times during which You wait for us to want You and Your guidance above all else.

Now in the quiet of this moment, we need to experience a hush instead of a rush. Your timing is perfect. Help us to realize that there are no unanswered prayers. A delay is not a denial if it brings us closer to You in deeper trust. Now an inner glow comes from living in the flow of Your peace. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able chairman of the Judiciary Committee is recognized.

SCHEDULE

Mr. HATCH. Mr. President, on behalf of the majority leader, today the Senate will begin consideration of Senate Joint Resolution 22, the independent counsel resolution. The majority leader has announced that no rollcall votes will occur today or during Monday's session of the Senate.

For the information of all Members, the next rollcall vote will be at approximately 2:45 on Tuesday, March 18. That rollcall vote will be on passage of Senate Joint Resolution 18, the Hollings resolution on a constitutional amendment on campaign expenditures.

With respect to the order reached last night relative to the independent counsel resolution, no amendments will be in order during today's session to Senate Joint Resolution 22. Amendments may be offered to the independent counsel resolution beginning at 3 p.m. on Monday. Senator LOTT has indicated that it is his hope he and the Democratic leader can reach an agreement as to when the Senate will complete action on Senate Joint Resolution 22.

I thank my colleagues for their attention.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The distinguished Senator from Montana is recognized.

Mr. HATCH. Will the Senator tell me how much time he will take, approximately?

Mr. BAUCUS. Seven minutes.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 443 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under previous order, the leadership time is reserved.

APPOINTMENT OF AN INDEPENDENT COUNSEL TO INVESTIGATE ALLEGATIONS OF ILLEGAL FUNDRAISING

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S.J. Res. 22, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 22) to express the sense of the Congress concerning the application by the Attorney General for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I rise today to speak on Senate Joint Resolution 22 which expresses the sense of the Congress that the Attorney General should apply for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.

Under Federal law, the Attorney General may apply to the special division of the Court of Appeals for the D.C. Circuit for appointment of an independent counsel whenever, after completion of a preliminary investigation, she finds that a conflict of interest exists or when she finds evidence that a specific category of individuals within the executive branch may have violated Federal law. The appointment of an independent counsel is a serious matter and one which the Attorney General should only initiate when necessary. That is why I, and many others, had refrained from joining the assortment of calls for Attorney General Reno to appoint an independent counsel in connection with the 1996 Presidential campaign.

Yet, yesterday, all 10 Republicans on the Judiciary Committee felt the time had come to request such an appointment. We sent a letter to the Attorney General, as authorized by the independent counsel statute, requesting that she make an application for an independent counsel. I ask unanimous consent that a copy of our letter to the Attorney General be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. We did that with due deliberation, without any desire to hurt anybody and without any desire to do other than to help the Attorney General make this decision.

I must confess to a degree of frustration with the Independent Counsel Act. Did I appreciate having to send our letter? Certainly not. However, the law sets forth a specific process by which Congress is to request that the Attorney General begin the process by which an independent counsel is appointed, and this process requires the Judiciary Committee to make what the other party will inevitably characterize as partisan charges in order to trigger the Attorney General's responsibilities. In order for Congress to trigger the most preliminary steps for the Department of Justice to take to consider the need for an independent counsel, the law essentially provides that the party not in control of the executive branch make specific charges when and if the Attorney General fails to act on her own. I would have preferred to have had the Attorney General seek an independent counsel on her own. But she has not done so. At the very least, I would have preferred that she conduct a preliminary investigation on her own. But she has refused to do even this. I would have preferred to have requested that she seek an independent counsel without having to set forth, in such a public manner as the law requires, the specific and credible evidence which warrants such an appointment. But in order for us to require the Attorney General to take certain minimal steps

toward investigating whether an independent counsel is warranted, we were required by law to send our letter. In short, the Independent Counsel Act is the law of the land and, notwithstanding its relative flaws, we on the Judiciary Committee have an obligation to abide by it.

At last week's Judiciary Committee executive business meeting, I had hoped to vote on a resolution expressing the committee's sense that an independent counsel should be appointed, and directing that I draft and circulate a letter requesting that the Attorney General apply for such an appointment. I had been led to believe that a committee vote on a resolution calling for an independent counsel would have broad bipartisan support. Yet, my colleague, Senator LEAHY—the committee's ranking member—indicated that, in light of the short notice they received about the proposed resolution, he and his colleagues wished to hold the resolution over until the committee's next business meeting. I readily acceded to their request.

It was not an unreasonable request. And besides, I was asked to begin this process just an evening before myself, and I had not had the opportunity to discuss it with Senator LEAHY. So there was absolutely no offense. It was something I was willing to do and readily did because I thought it was a reasonable, decent request.

Without getting into the details of our ensuing discussions, it became clear that it would be difficult, if not impossible, to formulate a resolution on which both sides of the aisle could agree. Furthermore, I felt it was best to avoid a prolonged discussion of this matter in committee given that it was unlikely consensus could be reached. Accordingly, I decided to proceed directly to drafting and circulating a letter to the Attorney General as I had originally planned. The letter went through a number of variations. We tried to please people, we tried to resolve problems, and I think we have. Unfortunately, we were unable to reach agreement with our colleagues on the other side of the aisle because we could not reach agreement on whether the committee should actually request the appointment of an independent counsel. Accordingly, I circulated a letter to all members of the committee and a majority of the committee's members signed on.

I remain persuaded that the appointment of an independent counsel is both called for under the independent counsel statute and responsive to the views of most Americans, who would like to be assured that these very serious allegations are investigated in a fair and thorough way, and without any real or apparent conflict of interest.

I am hopeful that Attorney General Reno, for whom I continue to have great respect, will appreciate the concerns set forth in our letter, and will agree that an independent counsel should be appointed forthwith to investigate these matters.

Recent developments have, I believe, made clear that a thorough Justice Department investigation into possible fundraising violations in connection with the 1996 Presidential campaign will raise an inherent conflict of interest, and certainly raises at least the appearance of such a conflict, and that the appointment of an independent counsel is therefore required to ensure public confidence in the integrity of our electoral process and system of justice.

Madam President, recent revelations have demonstrated how the DNC was, as the New York Times wrote, "virtually a subsidiary of the White House." That was on February 27, 1997, just a few weeks back. Without restating the points covered in our letter and without questioning in the slightest the integrity, professionalism or independence of the Attorney General or the individuals conducting the present Justice Department fundraising investigation, the fact that the Department's investigation will inescapably take it to the highest levels of the executive branch presents an inherent conflict of interest calling for the appointment of an independent counsel under title 28 United States Code section 591(c)(1).

Further, the answer to whether criminal wrongdoing has occurred will of necessity turn on the resolution of disputed factual, legal, and state of mind determinations. In particular, I would note that there remains the significant factual question of the extent to which the allegedly improper fundraising activity was, in fact, directed toward benefiting Federal campaigns, especially when some of this activity was, by admission, paid for by the Clinton-Gore campaign. Because the inquiry necessary to make these determinations will inescapably involve high level executive branch officials, they should, I believe, be left to an independent counsel in order to avoid a real or apparent conflict of interest. Moreover, where individuals covered by the independent counsel statute are involved, as they plainly were here, see title 28 United States Code section 591(b), the Ethics in Government Act requires that these inquiries be conducted by an independent counsel.

In any event, both prudence and the American people's ability to have confidence that the investigation remains free of a conflict of interest, warrants the appointment of an independent counsel.

More importantly, the emerging story regarding the possibility that foreign contributions were funneled into U.S. election coffers to influence U.S. foreign policy further highlights the conflict of interest the Attorney General's ongoing investigation inescapably confronts. I delivered a floor speech earlier in the week spelling out my concerns, so I will not restate them here. They are detailed in the letter which I have placed in the RECORD. It is clear, however, that these issues cannot be properly investigated without a conflict of interest, since investigating most of these questions will require inquiring into the knowledge and/or conduct of individuals at the highest levels of the executive branch. Moreover, several of the principal figures in this investigation, including the Riadys and the Lippo Group and Charlie Trie, reportedly have longstanding ties to our President.

Indeed, the conflicts at issue here are precisely the sort of inherent conflict[s] of interest to which the Attorney General testified during Senate hearings in 1993 on the reenactment of the Independent Counsel Act. Avoiding an actual or perceived conflict of interest was the basis, not just for the application for the appointment of an independent counsel to investigate James McDougal, but also for the recent requests to extend that counsel's jurisdiction to include the investigations of Anthony Marceca and Bernard Nussbaum. As the Attorney General herself testified, applying for an independent counsel, and our request that she make such application, in no way detracts from the integrity and independence of the Attorney General or the career prosecutors presently investigating these allegations.

A final point should be made. Some of my Democrat colleagues have written to the Attorney General urging her, should she decide to apply for an independent counsel, to request an independent counsel who will investigate the full scope of fundraising irregularities. They argue that she should avoid partisanship by instructing the independent counsel to investigate Republicans who have skirted the spirit of the law. I appreciate what my colleagues are trying to do, and their loyalty to their political party is duly noted by me. But, as I discussed a moment ago, the appointment of an independent counsel is a very serious matter and partisan proportionality should not even be the slightest consideration. Would these Senators have sent this letter had the majority not sent our letter to the Attorney General? I think we all know the answer to that question.

Furthermore, they fail to even suggest that the Republican activities to which they refer independently warrant an independent counsel. Accordingly, I expect the Attorney General, who is a woman of integrity, will give their letter the consideration it deserves.

In closing, Attorney General Reno has appointed four independent counsels to date. It is the sense of the majority of the members of the Judiciary

Committee that the need to avoid even the appearance of a conflict of interest, and thereby to ensure the public's confidence in our system of justice, requires an independent counsel in connection with the 1996 Presidential campaign. Should the Senate vote on Senate Joint Resolution 22, I will be voting in support of the resolution, and I think rightly so.

I call upon my friends on the other side of the aisle to consider voting for it as well. Voting that the Attorney General appoint an independent counsel in this case appears to me to be the right thing to do. Keep in mind, I have held off making this request for a lengthy period of time, knowing my constitutional duty and our constitutional duties here, because I wanted the Attorney General to have enough time, and those who are working with her who are people, I believe, of substance and integrity, to investigate and look into this and resolve these matters. But as these matters have accumulated, as the allegations have mounted up, as newspaper upon newspaper has written about them, it is clear that there is at least an appearance of a conflict of interest, and, therefore, it left us with no alternative other than to request this, even though, to repeat, I wish no one any harm. I certainly hope that these allegations are untrue, I hope they can be proven to be untrue, and my prayers will be in that regard.

Having said all of that, I do hope that the Attorney General will take the necessary step to apply for the appointment of an independent counsel and that one will be appointed. Then perhaps we can resolve these matters once and for all in an independent, reasonable way that I think will be for the benefit of everybody.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 13, 1997.

Hon. JANET RENO,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: This letter serves as a formal request, pursuant to 28 U.S.C. §592(g)(1), that you apply for the appointment of an independent counsel to investigate possible fundraising violations in connection with the 1996 presidential campaign. The purpose of this letter is not to provide an exhaustive list of the particular allegations that, we believe, warrant further investigation. Indeed, since the Department of Justice has been conducting an extensive investigation into fundraising irregularities for several months now, you presumably have far greater knowledge than do we of the various matters that are being, and will need to be, investigated, and we presume that your judgment as to the necessity of an independent counsel is based on all of the information before you. Rather, the purpose of this letter is to articulate why we believe this investigation should be conducted by an independent counsel. As you know, the Senate Committee on the Judiciary has, to date, refrained from joining the assortment of other individuals who have called upon you to initiate an independent counsel appointment. Recent developments over the past few weeks, however, have persuaded us that such an appointment is now necessary.

When you appeared before the Senate in 1993 when we were considering reenactment of the Independent Counsel statute, you stated "there is an inherent conflict of interest whenever senior Executive Branch officials are to be investigated by the Department of Justice and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. Recognition of this conflict does not belittle or demean the impressive professionalism of the Department's career prosecutors, nor does it question the integrity of the Attorney General and his or her political appointees. Instead, it recognizes the importance of public confidence in our system of justice, and the destructive effect in a free democracy of public cynicism."

You further testified that—

"It is absolutely essential for the public to have confidence in the system and you cannot do that when there is conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor. * * * The Independent Counsel Act was designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials and to prevent * * * the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters, and to avert even the most subtle influences that may appear in an investigation of highly-placed Executive officials."

We believe, that, in light of recent developments, a thorough Justice Department investigation into possible fundraising violations in connection with the 1996 presidential campaign will raise an inherent conflict of interest, and that the appointment of an independent counsel is therefore required to ensure public confidence in the integrity of our electoral process and system of justice.

First, recent revelations have demonstrated how officials at the highest level of the White House were involved in formulating, coordinating and implementing the DNC's fundraising efforts for the 1996 presidential campaign. Recent press reports, the files released by Mr. Ickes, and public statements by very high ranking present and former Clinton Administration officials indicate how extensively the Administration was involved in planning, coordinating, and implementing DNC fundraising strategy and activities. All this has led The New York Times to a conclusion which we find hard to challenge; namely, that "the latest documentation shows clearly that the Democratic National Committee was virtually a subsidiary of the White House. Not only was [President] Clinton overseeing its fund-raising efforts, not only was he immersed in its ad campaigns, but D.N.C. employees were installed at the White House, using White House visitors' lists and communicating constantly with [President] Clinton's policy advisers." The New York Times, February 27, 1997. As a consequence, we believe that a thorough investigation of all but the most trivial potential campaign fundraising improprieties necessarily includes an inquiry into the possible knowledge and/or complicity of very senior white House officials in these improprieties. We believe that, without questioning in the slightest the integrity, professionalism or independence of the Attorney General or the individuals conducting the present Justice Department fundraising investigation, the fact that the Department's investigation will inescapably take it to the highest levels of the Executive Branch presents an inherent conflict of interest calling for the appointment of an independent counsel under 28 U.S.C. §591(c).

Moreover, these revelations raise new questions of possible wrongdoing by senior White House officials themselves, including but not limited to whether federal officials may have illegally solicited and/or received contributions on federal property; whether specific solicitations were ever made by federal officials at the numerous White House overnights, coffees, and other similar events, and whether these events themselves, often characterized in White House and DNC memoranda as "fundraising" events, constituted improper "solications" on federal property; whether government property and employees may have been used illegally to further campaign interests; and whether the close coordination by the White House over the raising and spending of "soft"—and purportedly independent—DNC funds violated federal election laws, and/or had the legal effect of rendering those funds subject to campaign finance limitations they otherwise would not be subject to. It seems to us that, even accepting the narrow constructions of some of the governing statutes that have been suggested—which are not necessarily the constructions an independent counsel would render—the answer to whether criminal wrongdoing has occurred will of necessity turn on the resolution of disputed factual, legal, and state of mind determinations. Because the inquiry necessary to make these determinations will inescapably involve high level Executive Branch officials, we believe they should be left to an independent counsel in order to avoid a real or apparent conflict of interest. Moreover, where individuals covered by the independent counsel statute are involved, as they plainly were here, see 28 U.S.C. §591(b), the Ethics in Government Act requires that these inquiries be conducted by an independent counsel. Whether the Act simply permits or requires the appointment of an independent counsel, however, we believe that prudence and the American people's ability to have confidence that the investigation remains free of a conflict of interest, requires it.

Second, the emerging story regarding the possibility that foreign contributions were funneled into U.S. election coffers to influence U.S. foreign policy further highlights the conflict of interest your ongoing investigation inescapably confronts. A March 9, 1997, Washington Post article quoted "U.S. government officials—presumably familiar with the Department's ongoing investigation—as stating that investigators have obtained "'conclusive evidence'" that Chinese government funds were funneled into the United States last year," and quoted one official as stating that "there is no question that money was laundered." This article reported that U.S. officials described a plan by China "to spend nearly $2 million to buy influence not only in Congress but also within the Clinton Administration." If the FBI truly is investigating these allegations, as is reported, and this investigation extends to high level Executive Branch officials, it raises an inherent conflict of interest.

Moreover, a closer look at the activities and associations of some of the particular individuals who are reported to be the principal figures in the ongoing investigation further illustrates why this investigation ultimately must involve high levels of the Executive Branch. Especially troubling is the

information revealed to date regarding the Riady family and their associate, Mr. John Huang, but serious questions are also raised by the activities and associations of Mr. Charles Yah Lin Trie, Ms. Pauline Kanalanchak, and Mr. Johnny Chung, among others. Taken together, these reported events raise a host of serious questions warranting further investigation: To what extent were illegal contributions from foreign sources, in particular China, being funneled into the United States, and with whose knowledge and involvement? To what extent was U.S. policy influenced by these contributions, and with whose knowledge and/or involvement? To what extent were the decisions to hire Huang at the Commerce Department, to support most-favored-nation status for China and Chinese accession to the World Trade Organization, or to normalize relations with Vietnam, influenced by contributions, and with whose knowledge and/or involvement? To what extent was the standard NSC screening process for admission to the White House waived or modified so as to permit special access to large donors and their guests where it would ordinarily be denied, and with whose knowledge and/or involvement? To what extent was John Huang placed at the DNC to raise money in exchange for past and future favors, and with whose knowledge and/or investment?

It is evident that these questions cannot be properly investigated without a conflict of interest, since investigating most of these questions will require inquiring into the knowledge and/or conduct of individuals at the highest levels of the Executive Branch. Moreover, several of the principal figures in this investigation, including the Riadys and the Lippo Group and Charlie Trie, reportedly have longstanding ties to President Clinton.

Indeed, the conflicts at issue here are precisely the sort of "inherent conflict[s] of interest" to which you testified during Senate hearings in 1993 on the re-enactment of the Independent Counsel Act. Avoiding an actual or perceived conflict of interest was the basis not just for your application for the appointment of an independent counsel to investigate James McDougal, but also for your recent requests to extend that counsel's jurisdiction to include investigations of Anthony Marceca and Bernard Nussbaum. The same concern warrants your application for an independent counsel here, where public confidence can be assured only by the appointment of an independent counsel to investigate any alleged wrongdoing in connection with DNC, Clinton Administration, and Clinton/Gore Campaign fundraising during the 1994–1996 election cycle. As you yourself testified, applying for an independent counsel, and our request that you make such an application, in no way detracts from the integrity and independence of the Attorney General or the career prosecutors presently investigating these allegations.

Pursuant to the statute, please report back to the Committee within 30 days whether you have begun or will begin a preliminary investigation, identifying all of the allegations you are presently investigating or as to which you have received information, and indicating whether you believe each of these allegations are based on specific information from credible sources, and either pertain to a covered individual or present a conflict of interest. Please also provide your reasons for those determinations. See 28 U.S.C. 592(g)(2). In the event you conduct a preliminary investigation, but do not apply for the appointment of an independent counsel, or apply for an independent counsel but only with respect to some of the various allegations on which you have received information, please identify all those allegations which in your view do not warrant appointment of an independent counsel, and explain your view whether those allegations warrant further investigation, pertain to a covered individual, and/or present a conflict of interest See 28 U.S.C. §592(g)(3).

Sincerely,

Orrin G. Hatch, Charles E. Grassley, John Ashcroft, Spencer Abraham, Mike DeWine, Strom Thurmond, Arlen Specter, Jon Kyl, Fred Thompson, Jeff Sessions.

Mr. HATCH. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the first comment this morning is that everybody wishes the President well in his upcoming surgery. It is almost like those in some of the terrorist groups that go out and kneecap somebody and then send flowers to them in the hospital. I am not suggesting that there is hypocrisy in it, but I am waiting for all of the requests for special counsel and for some of my friends on the other side to ask for a resolution to spend money to send Senators in surgical gowns out to Bethesda to make sure the President really is out there having an operation.

It has reached that kind of a level around here. For some of my colleagues, if President Clinton were to walk across the water to save somebody from drowning, the headline in their statement would be, "It proves he can't swim."

When I hear some of the statements being made, I am reminded of a what a former Republican President—who, incidentally, was one of the best fundraisers I have ever known—said, "Well, there you go again."

Some in the Congress simply cannot avoid the temptation to jump the gun, draw the most negative possible inferences, and take every opportunity to discredit those who serve in the Government, and, as one who has served for years in law enforcement, they also take every possibility to discredit those who serve in law enforcement, and demand yet another costly, time-consuming, largely unaccountable and potentially destructive independent counsel investigation so long as it is limited to only investigating a Democratic President.

Senate Joint Resolution 22 does not advance the administration of justice. I think it is a kind of partisan effort at political spin. It comes at the end of a week during which the Senate rejected the majority leader's version of a resolution to restrict the Governmental Affairs Committee investigation. That resolution, before it passed, was altered during our floor debate to include examination of improper as well as illegal fundraising activities and finally to include such activities in congressional as well as the Presidential campaign. It then passed 99 to nothing.

The joint resolution before us is a similarly ill-conceived effort. It was introduced before the Rules Committee or the Senate moved to consider, amend and reamend the funding resolution for the Governmental Affairs Committee. It was introduced before the Judiciary Committee met on a committee resolution on March 6. It was introduced before the Republican and Democratic members of the Senate and House Judiciary Committees sent letters to the Attorney General. Those letters are the congressional actions contemplated by the independent counsel law. This resolution is not.

In fact, this resolution, if it were introduced as a bill rather than merely a sense of the Senate resolution and then passed as a law, would not pass constitutional muster.

It is very, very easy to stand here and say go out and look at the President; do not look at anything we do. Whatever you do, do not look at the House or Senate Members of Congress. But let us go after the President.

Mr. President, what we are saying is that our regular law enforcement agencies cannot do the job. We in Congress can. That is a laugh. As I said, I spent nearly 9 years in law enforcement. I know that the Attorney General and the others in law enforcement here have the independence to do what needs to be done. But I also know that it is the height of hypocrisy to say look at them; do not look at us.

The American people, the public, want more than anything else real campaign reform. The Republican leadership of the House and Senate could bring campaign reform measures to the floor today and ask us to have votes on them. Instead, they want to spend days and days and days bashing the President. Even while he is lying in the hospital in Bethesda for surgery, they will spend days bashing him, hoping that nobody will notice the tens of thousands of dollars we will spend in this Chamber in this debate and the printing costs of it all. They are hoping that maybe the American public will not ask the question: If you have all that time and money and effort to spend, why not debate real campaign finance reform and vote on it—campaign finance reform that would apply not just to the President and Vice President but would apply to every Democrat, Republican and Independent in the House and Senate and every Democrat and Republican and every Independent who might challenge an incumbent.

The fact is that if you took a poll today and asked the American public,

do you want real campaign finance reform, the response would be a resounding yes. I hope the American public will ask the Republican leadership of the Senate and the Republican leadership of the House, because they are the ones responsible for setting the legislative agenda, when are you going to bring campaign finance reform to the floor? The President has said he will sign the bill. Unlike the last strong, tough campaign finance reform bill that was passed by the House and Senate and went to the White House for signature and was vetoed by the former President, this President has said he will sign such a bill.

It is going to be easy during the vacation set up in a week for the House and Senate, for Members to go home and give wonderful speeches and say we are in favor of campaign finance reform. We are all in favor, just like we are in favor of God and motherhood. But I hope people ask, but have you voted on it? When are you going to vote on it? Bring it up and have a vote on real campaign finance reform.

Now, some Members will vote against it and some Members will vote for it. But at least the American public will know how their Member of the House and their Senators voted. That is all we are asking.

I understand and I have great respect for some Senators who do not want to vote for a campaign finance reform bill, even those who oppose campaign finance reform legislation. I do not question their motives. Let them vote against it. But I also respect those such as Senator FEINGOLD and Senator MCCAIN who have brought forward a campaign finance reform bill, and they ought to have a vote on it. That is all I am asking. Stop the smokescreens of Friday afternoon talks about investigating the President. I am sure they will pause at some point to wish him well during his surgery this afternoon and then they will go right back to bashing him.

Why not say here, Mr. President, we will actually do what we are hired to do, what we are elected to do, what we are paid to do. We will pass a campaign finance reform law.

In fact, while we are at it, maybe we ought to pass the chemical weapons treaty.

While we are at it, maybe we ought to pass a budget. My good friends on the other side of the aisle criticize the President's budget. Well, they have a majority of the votes in the House and Senate to pass their own. In fact, the law requires them to do it shortly after the vacation. Let us see if they will pass one.

It occurs to me the kind of votes necessary to pass a budget are the kind of votes that might cause some political pain on the right and the left, and maybe that is why we do not actually vote on those kinds of things. It occurs to me that if we passed a bill on campaign finance reform, it would actually cause some pain, especially for those of us who are incumbents, and maybe that is why the leadership will not bring that bill to the floor. It occurs to me that the reason these resolutions about investigations are very carefully aimed at the President and exclude any consideration of possible improper activity on the part of Members of Congress is that maybe—maybe—some who are supporting them want to make sure no gaze of a special prosecutor is directed at activities of Members of Congress.

There are only 100 people at any one time who are given the opportunity to be in the Senate. I do not question the fact that you have to have some partisan motivations to get elected in the first place. But when you are here and take an oath of office, an oath to uphold the Constitution, to represent the whole country and to uphold the Constitution of the United States, let us not have partisan games that are more reflective of somebody running for some minor county office somewhere. We are supposed to be reflecting the interests of all of the United States. We are supposed to be reflecting the interests of all people. What we do as the Senate should reflect the conscience of the United States. The Senate should be, and at times has been, the conscience of this great country. But, when we engage in partisan games aimed at sliming the President, but at the same time protecting every single thing we do, that is not representing the conscience of the United States. That is not rising to the level of what the U.S. Senate should be.

If Members want to investigate the President on fundraising activities, then be honest enough to say we will apply the same searchlight, the same magnifying glass, the same standards to ourselves. Do not give a hypocritical image of the U.S. Senate to the American people by saying we will go after the President but we will make sure that nobody looks at us, nobody asks us if any of us had done the exact same things we are asking the President not to do. That is not showing the kind of respect we should have for this Senate, for this body, for the precedents we establish here.

This resolution before us is not authorized by the independent counsel law. If it were a separate bill, it would not pass constitutional muster. It is an inappropriate effort to pressure the Attorney General to prejudge these matters. It would pervert the independent counsel process under the law. The independent counsel law was designed to protect the independence of investigatory and prosecutorial decisions, including those of the Attorney General. This resolution would say that Congress does not want the Attorney General to be independent. The resolution says that we want to step in and tell her what to do and how to do it. The independent counsel law was passed to ensure that investigative and prosecutorial decisions are made without regard to political pressure, but this action by the Senate would subvert that purpose by subjecting the critical initial decisions about invoking the law to just such political pressure.

We are saying to the Attorney General, do not you use any of your judgment. We will tell you what you have to think. When I was a prosecutor, I knew what I would have told any legislative body that told me how to exercise my prosecutorial discretion. It is not Congress' place to determine whether and when to bring criminal charges. As a former prosecutor, I say this body is ill-suited to that purpose. The administration of justice is ill-served by efforts to intimidate a prosecutor to begin a case, just as it would be ill-served by the legislature trying to intimidate a prosecutor to end a case.

This resolution will serve only to undermine the investigation that the Attorney General now has underway. It will undercut the independent counsel law and I believe it further erodes public confidence in Government's ability to do its job. We ought to do our job and let the Attorney General do hers.

Part of our job would be to pass campaign finance reform. But you see absolutely no effort by the Republican leadership to bring such a bill to the floor for a vote. Part of our job would be to vote up or down on the chemical weapons treaty, but you see no effort on the part of the Republican leadership to bring that to a vote. Part of our job would be to pass a budget, vote it up or down, but you see no effort on the part of the Republican leadership to bring that to a vote on the floor. What this resolution does is take the Senate down another detour, away from the critical work that we should be doing and is being left undone.

I have been here 22 years. I have been proud to work with Republicans and Democrats on major legislation. On the floor of the Senate during last year's Presidential election, I took the floor of the Senate to praise the former Republican leader, Senator Bob Dole. I praised him during the height of the Presidential election year, saying he is a man I had worked with closely for bipartisan solutions on farm bills, on hunger issues, on school lunch, school breakfasts, and the Women, Infants, and Children Programs. We forged a bipartisan consensus, just as I have been proud to do with so many other Members on the Republican side, and just as so many real leaders in the Republican Party have done as they have worked with Members of the Democrat side to form a bipartisan consensus on issues that are most important to the United States of America.

Unfortunately, when you have things like this resolution, which are so blatantly partisan, where little effort is made to bring about a bipartisan resolution, we find ourselves going further away from the kind of bipartisan approach to the Nation's problems that we heard so much about when this session was beginning.

It is almost as though some go out and have a pollster ask, "What do you American people want of us?" They will get back from the pollster that the people want us to work together, they want us to have bipartisan solutions, they want us to show more civility, they want us to work together in the interests of the country. So what do these well-informed legislators proceed to do? They go on the Sunday talk shows and have weekend press conferences and say that it is a new day, that there is an effort for bipartisan consensus. They say what they think the people want to hear.

But do we see a bipartisan effort on a budget resolution? No. Do we see a bipartisan effort on a chemical weapons treaty? No. Do we see a bipartisan effort to confirm Federal judges?

There has not been one single judge confirmed yet this Congress. You know, there is a heck of a lot more effort given to somehow influencing the appointment of an independent counsel or special prosecutor, by this body, than there is to considering and confirming Federal judges. Not one single Federal judge has been confirmed by this Congress. Not one court of appeals judge was confirmed in the last session of Congress. The Chief Justice of the United States, a conservative Republican, appointed first by one Republican President as a member of the Supreme Court and subsequently by another Republican President as Chief Justice, has said we have reached a crisis situation. There are nearly 100 vacancies in our Federal courts. Justice is not only delayed, justice is denied to American people—all American people, Republicans and Democrats alike.

Everybody knows it is a crisis. But this Senate, with all the talk about bipartisanship, has not confirmed one single Federal judge. In fact, I think there is only one scheduled for consideration by the Senate. At this rate—I am 56 years old—through normal attrition and all, if we keep on at this rate, when I am 156, instead of 100 vacancies we will have 300 or 400 vacancies.

This is not the way to show any kind of bipartisan consensus. If we spend one-tenth as much of an effort at confirming Federal judges that we are supposed to, that we are paid to do, that we are elected to do we might begin to fulfill our responsibilities. If we spend one-tenth the effort on confirming judges that we spend on cranking up more and more multimillion dollar investigations of the President, we might accomplish something. But, obviously, that is not intended in this new era of bipartisanship.

We spent the first 2 months of this year debating a proposed constitutional amendment that is unnecessary, unsound, and unwise, but a bumper-sticker approach to the problems of budget deficits and the need to balance our Federal budget. We have not spent 38 seconds on this floor actually debating a real budget. We have not spent 21 seconds; we haven't spent a nanosecond. We spent 2 months talking about something that might take effect in the next century. But we have not spent 2 seconds debating something that will take effect this year.

Mr. President, I fear for the Senate. I am proud of the Senate. I am proud of being here for 22 years. I am proud of serving with great Republican leaders and great Democratic leaders. I am proud of serving with men and women from both the Republican and Democratic side whom I consider true national leaders.

What makes me proud is they have come together for the best interest of the United States, not leaving behind their party allegiances, but being first and foremost Americans and U.S. Senators and doing what is best for the country. I do not see that happening now, Mr. President. It fills this Senator with a great deal of sorrow.

This is not the way we do things in my State. In my State, we will fight for our elections. Some win, some lose. Then we come together as Republicans and Democrats for what is best for Vermont. We, U.S. Senators, 100 of us having a chance to represent more than 250 million Americans, ought to do what is best for this country. A quarter of a billion Americans expect the 100 men and women of this body to do that, and we are not bringing together the bipartisan consensus we used to and that we need to achieve.

I talked about the bumper-sticker sloganeering of the constitutional amendment. It failed here. In the House, they have not even had a committee markup. The Republican Party decided not to do that. For whatever their reasons are, I hope now, after spending months on that ill-fated effort, we can actually debate and pass a budget. I tell my friends on the other side of the center aisle that if they really want to work on a bipartisan budget, we can. For that matter, they do not have to ask for a single Democratic vote. There are enough Republicans in the House and Senate to pass a budget, as the law requires, by April 15, if they really want to.

Mr. President, I have talked about judicial vacancies. Twenty-five percent of the current vacancies have persisted for more than 18 months. A quarter of the judicial vacancies in this country have been there for a year and a half. This is justice delayed, this is justice denied, this is wrong.

I have served here twice in the majority and twice in the minority. I have served here when the President of the United States was President Gerald Ford, then President Carter, then President Reagan, then President Bush, and now President Clinton. Never in my memory, under Republican Presidents or Democratic Presidents, with Republican Senates or Democratic Senates, never has the leadership of this body ever allowed a situation when judicial vacancies would exist in this number for this long. Never.

Republican leaders like Howard Baker or Bob Dole or Hugh Scott, Democratic leaders like Mike Mansfield or BOB BYRD or George Mitchell or TOM DASCHLE never countenanced such a thing. Never would these great leaders have done this. Never have they allowed the Federal judiciary to get in such an abysmal state, when the Chief Justice has to say it is a crisis, when the Chief Justice says: "It is hoped that the Administration and Congress will continue to recognize that filling judicial vacancies is crucial to the fair and effective administration of justice." And yet, we have to tell him today that we are not doing it, we are not doing our job.

A little over a year ago, the Republican majority of the House and Senate closed down the whole Government, for days on end, weeks on end, to make a political point. The political point is that they wasted hundreds and hundreds of millions of dollars of the taxpayers' money and the American public found out the Speaker of the House, at one point, had to go out the back door of Air Force One—obviously, the kind of affront that they felt justified wasting hundreds of millions of dollars of taxpayers' money.

They were making a political point and the Government was closed down. Some say billions of dollars were wasted. It was an enormous inconvenience to the American taxpaying public who were wondering what was going on.

Having had this failed experience of closing down the executive branch of Government, it appears they now want to close down the judicial branch of Government. This is the kind of capricious meanness that you see in a schoolboy plucking the wings off a fly. This is beneath the dignity of the U.S. Senate. This is beneath the dignity of being a U.S. Senator. This is beneath the dignity of our Constitution. This is wrong. This has never been done. It was never done under the leadership of Senator Baker and Senator Dole, under the leadership of Senator Mansfield, Senator BYRD, Senator Mitchell, or Senator DASCHLE. I doubt if it was ever done under the leadership of those who came before them.

The Senate is not fulfilling its constitutional responsibility. It is interfering with the President's authority

to appoint Federal judges. It is hampering the third, coequal branch of our Government.

The Republicans controlling the 104th Congress shut down the executive branch, this Congress they seem intent on shutting down the judicial branch for political gain. It is a scandal in the making. It is high time for the Senate to do its duty to consider and confirm judges to the vacancies that have persisted for so long.

Instead, they bring to the Senate floor this resolution and say, "Hey, Mr. President, I hope you enjoy your time in Bethesda. Turn on C–SPAN. We're going to stand here and bash you for a day or two or three."

I suggest this: If you want to do that—if the leadership figures that the only thing to do, because they cannot pass a budget, cannot ratify a treaty, cannot pass anything else that might significantly improve the lives of the American people—if, instead, they want to use this Senate to bash the President, could we have maybe an hour every day to do the people's business? Maybe an hour a day? For 10 hours, they can bash the President and 1 hour each day we could actually debate their budget resolution, if they had a budget resolution. For 10 hours a day, bash the President, an hour a day actually consider and confirm Federal judges.

It is getting a little ridiculous. Do people know that we get paid $133,000 a year, and we have not had 1 second of debate on the budget resolution that the Republican leadership of the Senate and the House are supposed to bring before us for a vote? Do they know that we get paid $133,000 a year, but if you want to litigate a case in a Federal court, you probably cannot get before a Federal judge because of the vacancies that our inaction is perpetuating?

Do they know how much it is costing to do the bashing per page of the CONGRESSIONAL RECORD? Maybe it is a sort of full-employment opportunity for printers. As a printer's son, maybe I ought to be happy, but I do not think this is what my father would think was the best thing for this body to do.

So, Mr. President, some of this could be humorous if it were not for the enormous cost to the taxpayers, if it were not for the fact that we are not doing what we are supposed to do, if it were not for the fact that the kind of bipartisanship that has always made me proud to be a Member of the U.S. Senate has broken down more than I have ever seen before. Maybe it would be funny if so many people were not hurt.

The Attorney General will look into any issues that there may be at the White House. She will report back to us, as she is required to do. We can look at that report and we can determine whether we agree with it or not. But as a former prosecutor, I must tell you, I find it very offensive to tell a prosecutor, "Here is what you must do and must not do. Here are the conclusions you must reach and must not reach."

That is basically what this resolution is saying and it is also saying: "Oh, by the way—by the way—there's one thing thou shalt not do. Thou shalt not ask any question of a Member of Congress. We, the Republicans, who control the majority in the Congress, are saying, thou shalt not ask questions of us, what we might have done in fundraising." I will guarantee you, Mr. President, when we bring up an alternative resolution which calls on the Attorney General to look at Members of Congress, that in lockstep the Republican majority will vote that down. A herd of elephants will trample that into the dust.

Why is that? They say, go investigate the President. We have already spent $30, $40 million investigating the President and found nothing that says he has done anything wrong. We have already spent about $30, $40 million on a special prosecutor, who also goes out and gives speeches to organizations that seek to defeat the President. We spent $30, $40 million on a special prosecutor who has clients whose PAC's have worked very hard to defeat the President. We spent $30, $40 million on a special prosecutor who would not recognize a conflict of interest if it hit him up alongside the head.

Now they say, "Let's just go after the President some more, but, please, make sure you understand what we are saying: Don't touch us." It reminds me of the tax debate where the distinguished former chairman of the Finance Committee, and one of the real giants of the Senate, Russell Long, in debate said, "The kind of taxes we want are, don't tax me, don't tax thee; tax the man behind the tree." Well, in this case, my good friends on the Republican side want to hide behind that tree and say, "Investigate everybody on the other side of the tree. Don't look at us."

I would like to think, Mr. President, this is because all the Members who are going to vote against any investigation of the Senate or the House, all the Members who want to block that, are as pure as Caesar's wife. I would like to follow that analogy, Mr. President, but I could not do it with a straight face.

It is really very blatant what is going on here. The majority does not want to have a vote on a budget. The majority does not want to have a vote on a chemical weapons treaty. Lord knows, the majority does not want to do anything significant in filling the 100 vacancies now persisting in the Federal courts. And those vacancies will grow just through the normal retirements, deaths, and so forth. But let them pound the President.

Oh, I would not be surprised if at some point in here we will probably have a resolution calling for the President's speedy recovery from the surgery this afternoon, but they will just pound the heck out of him in the meantime.

You know, Mr. President, I am not sure anybody is fooled by this. If it was just a silly partisan exercise, it would be one thing. At most, it would be an embarrassment to the U.S. Senate. But it goes beyond that. Because now we find that not only—not only—has there been an unprecedented attack on the Constitution by blocking Federal judges, but now the other shoe has dropped. We have heard from Members in the other body that they want the impeachment of judges. If they disagree with their decision, they want them impeached.

I say to my friends on the other side who are calling for impeachments, they should take the time—I was going to say to "reread" a history book, but I think that might be presupposing to say "reread" one—but go and read a history book. And I cannot say "reread"he Constitution, because that also presupposes they read it. Read the Constitution.

This Nation, the greatest democracy that history has ever known, the most powerful nation on Earth and still remaining a democracy, is here because of the independence of the three branches of Government: The legislative, the executive, and the judiciary.

Mr. President, everywhere I go in this country and throughout the world I find such enormous respect for our independent Federal judiciary. Look at some of the countries that are seeking democracy. One of the biggest problems they have is that they have never had an independent judiciary. We pride ourselves on our independent judiciary. But for us to say, "I disagreed with a decision, impeach him," it is like Alice in Wonderland, the queen saying, "Off with their heads, off with their heads." It is that silly.

There are, after all, appellate courts. I have tried cases. I have won some and I have lost some. I have known I could always appeal. That is what you do. If a judge rules differently than you like, appeal the decision. Do not say "Oh, we'll impeach them." What kind of respect do you think there will be for our Federal courts if that could be done?

This makes me think, Mr. President, of those who had billboards out "Impeach the Supreme Court" because the Court ruled against segregation. It was wrong then for those who wanted to violate the independence of our courts because the courts dared point their finger at the sin and the stain of segregation. It was just as wrong then as it is today.

If my friends on the other side persist in destroying the independence of our

Federal judiciary, what kind of a legacy do they leave their children and their children's children?

My children will live most of their lives in the next century. I think to myself every day, what kind of a century will we give to them if, after 200 years of building up the greatest democracy history has ever known, we start with this piece and this piece, tearing down what made it a great democracy, tearing down the Constitution, tearing down the independent judiciary, and, yes, Mr. President, tearing down the Senate and tearing down the House by our own statements and by our own actions? That is wrong.

Mr. President, before this gets any further out of control, I pray that Republicans and Democrats will start coming back together as we did under the great leaders with whom I have had a privilege to serve—Senator Mansfield, Senator BYRD, Senator Mitchell and now Senator DASCHLE, and on the other side, Senator Baker and Senator Dole. These were men who were willing to fight for their partisan beliefs but who knew that there were some issues where the American people have to be heard first and foremost and that we needed to come together.

I pray that our Members might pause here today—at least let the President of the United States go to surgery this afternoon without us trying to tear him apart—and ask ourselves, Republicans and Democrats alike, what are we doing to the Senate? What are we doing to the House? What are we doing to our Federal Judiciary? What are we doing to the protection of our Constitution when we say judges should be impeached not for high crimes and misdemeanors, as the Constitution speaks of, but because we disagree with them?

If anybody has ever tried cases, and I have tried a lot of cases, you will find judges to disagree with. The other side might be delighted. The next week the judge may agree with you and the other side is angry. That is the way it works. I tried a lot of cases in the appellate court and I have tried a lot of cases in trial courts. However, sometimes I disagreed with a determination.

Mr. President, when I began this statement there were no other Senators on the floor seeking recognition. I now see my distinguished colleague from Rhode Island and will suspend my remarks at this point to allow him an opportunity to be heard.

I do ask unanimous consent that a copy of the March 13 letter to the Attorney General that is signed by seven Democrats serving on the Senate Judiciary Committee be printed in the RECORD. It has been quoted already today, but out of context, so I feel compelled to include the complete letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 13, 1997.

Hon. JANET RENO,
Attorney General of the United States,
U.S. Department of Justice,
Washington, DC.

DEAR MADAM ATTORNEY GENERAL: We expect that certain Republican members of the Senate Committee on the Judiciary have forwarded to you a letter, purportedly pursuant to 18 U.S.C. §592(g)(1), that you apply for the appointment of an independent counsel to investigate "possible fundraising improprieties in connection with the 1996 presidential campaign." We will leave it to you to evaluate and respond to that letter in accordance with your statutory responsibilities to determine whether grounds to investigate were furnished in that letter. Rather than provide specific information and credible sources the Republican letter appears to us to be a political document that strings together a series of negative inferences, unanswered questions and damning conclusions.

We, the undersigned members of the Committee on the Judiciary, are concerned about illegal and improper fundraising and spending practices in Federal election campaigns and the need for campaign finance reform. Whereas press accounts and reported allegations of improper fundraising in Federal campaigns undermine public confidence in the integrity of our electoral process, we want to do all that we can to restore public confidence and get to the bottom of such alleged wrongdoing as soon as possible.

Should you determine that an application for appointment of an independent counsel is appropriate, we request that your application avoid partisanship and include the full scope of fundraising irregularities. The written request from our Republican colleagues focuses entirely on allegations of fundraising irregularities by the 1996 Clinton/Gore Presidential Campaign and by the Clinton Administration, with a primary focus on two areas: first, whether senior White House officials and other Executive Branch officials "improperly solicited and/or received contributions on federal property"; and second, whether foreign contributions "were funneled into U.S. election coffers to influence U.S. foreign policy."

In addition to the areas outlined by our Republican colleagues, we request that you also examine additional items. *First*, revelations in the press have been rampant about Republican campaign fundraising improprieties, including soliciting contributions on federal government property. Other Republican fundraising activities also raise significant questions about the appearance of conflicts of interest and whether any quid-pro-quo is involved in legislative activities. Additional revelations raise questions about how Republicans have in some instances violated campaign finance laws and in other instances skirted the spirit, if not the letter of the law, by using not-for-profit organizations to funnel money for use in campaigns without the reporting requirements and limitations that apply to formal campaign committees. *Second*, we are concerned about the possibility that foreign governments are seeking to influence our domestic and foreign policy through campaign contributions, including to congressional candidates for federal office.

We understand that you have already formed a Task Force of experienced prosecutors from within the Public Integrity Section of the Criminal Division to investigate whether criminal conduct took place in 1996 federal election campaigns and that the Task Force is already well underway in its investigation. We further understand that over thirty special agents from the Federal Bureau of Investigation have been assigned to work on this investigation. Indeed, the press has reported that this Task Force has already served subpoenas and presented testimony to a grand jury. We appreciate your pressing forward without delay and credit your past statements that you are continuing to evaluate whether you need apply for the appointment of an independent counsel. We also appreciate that appointment of an independent counsel is not always a panacea. We believe that the cost and delay of independent counsels have not always been justified, that they have not been accountable and that the judicial panel responsible for appointing such an independent counsel in these circumstances may well have its own conflict of interest. Most importantly, we understand that were you to shift your approach at this point in order to conduct a preliminary investigation under the independent counsel law, you would have no authority to convene grand juries or issue subpoenas. Thus, the work being done by the current Task Force would have to cease abruptly and the matter would go forward with less authority and fewer investigative powers and options.

The decision to invoke the independent counsel process in a particular matter rests with you and not with the United States Congress or any member or members thereof. You have demonstrated your willingness to invoke the independent counsel law in the past and we have the utmost confidence that you will invoke the law again, if and when the legal standards have been met in a particular matter. These standards are clearly set forth in the independent counsel statute. You must invoke the independent counsel process when there is specific information from a credible source that a crime may have been committed by enumerated "covered persons", under 28 U.S.C. §591(a). You may exercise your discretion to invoke this process when there is specific information from a credible source that a crime may have been committed by any other person and where the Justice Department has a personal, financial or political conflict of interest, under 28 U.S.C. §591(c)(1); or when there is specific information from a credible source that a crime may have been committed by a member of Congress and where it would be in the public interest to do so, under 28 U.S.C. §591(c)(2).

Partisan requests for invocation of the independent counsel process give the appearance of attempting politically to influence a decision by the Attorney General whether to invoke the independent counsel process in a particular matter. To our mind, this will result in further undermining the public confidence's in the integrity of government, the independent counsel process and in the criminal justice system as a whole. Consequently, we urge you to exercise your best professional judgment, without regard to political pressures and in accordance with the standards of the law and the established policies of the Department of Justice, to determine whether the independent counsel process should be invoked, pursuant to 28 U.S.C. §591(a) or (c), to investigate allegations of criminal misconduct by any government official, member of Congress or other person in connection with the 1996 federal election campaigns.

Only this week the Senate authorized the Governmental Affairs Committee to begin

its investigation into illegal and improper fundraising activities in the 1996 federal election campaigns. We are sure that you, as well as we, will monitor that investigation and those hearings closely to determine whether grounds for application for the appointment of an independent counsel arise.

In conclusion, please report back to the Committee, identify the allegations you are presently investigating, and indicate whether you have begun or will begin a preliminary investigation as limited by the independent counsel law, indicate whether you believe these allegations to which we have referred are based on specific information from credible sources, and indicate whether these matters present a conflict of interest with respect to a covered person or, with respect to members of Congress, whether it would be in the public interest to apply for the appointment of an independent counsel. Please also provide your reasons for those determinations. In the event you conduct a preliminary investigation, but do not apply for the appointment of an independent counsel, or apply for an independent counsel, but only with respect to some of the various allegations on which you have received or developed information, please identify all those allegations which in your view do not warrant appointment of an independent counsel, and explain your view whether those allegations warrant further investigation, pertain to a covered individual, present a conflict of interest or with respect to members of Congress, why the public interest is served by proceeding in the manner that you have chosen.

Sincerely,

HERB KOHL,
PATRICK J. LEAHY,
RICHARD J. DURBIN,
DIANNE FEINSTEIN,
JOSEPH R. BIDEN, Jr.,
EDWARD M. KENNEDY,
ROBERT TORRICELLI,
U.S. Senators.

Mr. LEAHY. Mr. President, I ask unanimous consent to have printed in the RECORD, not introduced, but printed in the RECORD, a copy of a joint resolution which is very close to one that will be introduced by this side as an amendment during this debate.

There being no objection, the material was ordered to be printed in the RECORD, a follows:

S.J. RES. —

Whereas the independent counsel law was created to restore public confidence in the criminal justice system after the abuses of the Watergate scandal;

Whereas the decision on whether to invoke the independent counsel process in a particular matter rests by constitutional necessity with the Attorney General and not with the United States Congress;

Whereas the law provides, in section 591(a) of title 28, United States Code, that the Attorney General must invoke the independent counsel process where there is specific information from a credible source that a crime may have been committed by a covered person;

Whereas the law provides, in section 591(c)(1) of title 28, United States Code, that the Attorney General may invoke the independent counsel process where there is specific information from a credible source that a crime may have been committed by any other person and where the Justice Department has a personal, financial, or political conflict of interest;

Whereas the law provides, in section 591(c)(2) of title 28, United States Code, that the Attorney General may invoke the independent counsel process where there is specific information from a credible source that a crime may have been committed by a Member of Congress and where it would be in the public interest to do so;

Whereas the Attorney General has invoked the independent counsel law in the past, and has stated that she will invoke the law again if and when the legal standards have been met in a particular matter;

Whereas the independent counsel law was never intended to be used in a partisan manner, and such a misuse of the law would damage public confidence in the criminal justice system; and

Whereas it would be unprecedented and inappropriate for the Congress to cast a vote which would have the appearance of attempting to politically influence a decision by the Attorney General on whether to invoke the independent counsel process in a particular manner: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the Attorney General should exercise her best professional judgment, without regard to political pressures and in accordance with the standards of the law and the established policies of the Department of Justice, to determine whether the independent counsel process should be invoked, pursuant to section 591(a) or (c), to investigate allegations of criminal misconduct by any government official, Member of Congress, or other person in connection with any presidential or congressional election campaign.

Mr. DODD. Mr. President, the resolution that is before us, and is the question of whether or not there ought to be an independent counsel.

Let me suggest here that there are three or four other items I want to talk about later. I am also interested in talking about the investigation that will be moving forward now as a result of last week's vote; the Federal Election Commission and some idea on a piece of legislation I will introduce with regard to that, and then the proposed McCain-Feingold legislation. I presume this has been somewhat confusing to someone watching this out there, with all these various resolutions and debates going on. But they are issues all related to the same subject matter.

Mr. President, let me just briefly say, with regard to the resolution before us, as someone who appreciates the role of having a statute dealing with independent counsel, I, for one, along with others—and I am not alone in this regard—have expressed some reservations and concerns about the independent counsel route generally, putting aside any specific matters. I was one who voted against establishing an independent counsel in the case of former President Bush when there were allegations raised involving Iran and Iran-Contra. I felt that those motivations were purely political. There were those in my party, principally in my party, who pushed a resolution, and I felt it was unwarranted. If felt it was politically motivated, and voted against it.

I felt that the independent counsel's Iran-Contra investigation went on way too long. It went on for years and cost an incredible amount of money.

So I am leery of this general approach because of how it is self-sustaining and goes on indefinitely. The passage of the statute was to try and do something to take politics out of this a bit, to set some very clear guidelines so we would not be involved in partisan debate over whether or not there ought to be an independent counsel.

Obviously, Members are going to express themselves on the issue, and I understand that. But with the independent counsel law we tried to remove the political debate in deciding these issues. I urge my colleagues in this matter to allow the Attorney General to make her decision. She is about as independent as any Attorney General we have had and certainly has not been intimidated by invoking the independent counsel statute in the past, as expressed by the Senator from Vermont.

I want to express the worrisome feelings I have about this. We have seen independent counsel investigations go on way too long. They are self-fulfilling. Today, we have the Justice Department, the FBI looking at the matter that is the subject of the request that an independent counsel become involved.

Mr. LOTT. Mr. President, I today join the majority of members of the Judiciary Committee in calling on the Attorney General to begin the process for the appointment of an independent counsel to investigate possible violations of Federal law in connection with fundraising and other activities during the 1996 Presidential election campaign.

The independent counsel statute—28 United States Code section 591 and following—provides that the Attorney General shall conduct a preliminary investigation, which is defined as "such matters as the Attorney General considers appropriate in order to make a determination, whether further investigation is warranted, with respect to each potential violation, or allegation of a violation, of criminal law, when she receives information sufficient to constitute grounds to investigate" whether certain persons violated any Federal criminal law other than a class B or C misdemeanor. These persons include:

First, President and Vice President;

Second, persons working in the Executive Office of the President paid at or above level II;

Third, chairman and treasurer of the President's reelection committee, or any officer of the reelection committee exercising authority at the national level during the President's term.

The test of the sufficiency of the information received is whether or not it is specific and credible. The Attorney General has 30 days to review this information to make the determination. This is a very low threshold test. The only way she can avoid a preliminary investigation is to determine that the information is not credible or not specific. If she finds she is unable to determine within 30 days if the information is credible and specific, she still has to begin the investigation.

Further, if the Attorney General determines that an investigation or prosecution by the Department of Justice of any other person may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation. Although this would seem to be more discretionary than the shall language otherwise in the statute, Attorney General Reno understands the importance and the necessity of the independence of the investigation into such matters. As she testified before the Judiciary Committee in 1993 when that committee was considering reenactment of the independent counsel statute:

There is an inherent conflict of interest whenever senior Executive Branch officials are to be investigated by the Department of Justice and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. Recognition of this conflict does not belittle or demean the impressive professionalism of the Department's career prosecutors, nor does it question the integrity of the Attorney General and his or her political appointees. Instead, it recognizes the importance of public confidence in our system of justice, and the destructive effect in a free democracy of public cynicism."

She further testified:

It is absolutely essential for the public to have confidence in the system and you cannot do that when there is conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor . . . The Independent Counsel Act was designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials and to prevent . . . the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters, and to avert even the most subtle influences that may appear in an investigation of highly-placed Executive officials.

Despite the fact that high-level executive department officials and other covered persons have been implicated in possible violations of Federal law, the Attorney General seems to have ignored her own warnings about the appearance of a conflict of interest or impropriety and has chosen not to initiate the procedure leading to the appointment on her own. In light of this decision, it is left to the Senate, through the action of its Judiciary Committee, to pursue the appointment of an independent counsel.

This action has been initiated by written request to the Attorney General. Under the independent counsel statute, the Attorney General has 30 days after receipt of the request to report if the preliminary investigation has begun—and the date it began—or that it will not begin. She must give her reasons for either beginning or choosing not to begin the investigation.

I am confident that Attorney General Reno will heed her own words in her testimony before the Judiciary Committee and seek to avoid even the appearance of impropriety in this investigation.

There is sufficient specific and credible evidence now to initiate the process now. To do otherwise or to delay action will call the Attorney General's decisionmaking process into question. That is specifically the effect that must be avoided here. There should be no appearance of impropriety in the decision of whether to appoint an independent counsel and I am confident, upon consideration, the Attorney General will see the wisdom in expediting the decision to ask for the appointment of such independent counsel.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, there are two items I will address this morning. I will not be long. I know the distinguished Senator from Rhode Island is waiting to speak.

COMMUNICATIONS DECENCY ACT: COMPELLING INTEREST STATEMENT

Mr. COATS. This coming Wednesday, Mr. President, March 19, the Supreme Court is scheduled to hear oral arguments on the constitutionality of the Communications Decency Act. This act was passed by this Senate in the last Congress by an overwhelmingly bipartisan vote of 84–16. The previous Senator talked of cooperation between parties, and there certainly was a significant degree of cooperation on this issue. We worked on a bipartisan basis, securing 84 votes for its passage. Eventually, Congress passed the act as part of the historic telecommunications reform legislation.

The Communications Decency Act, passed by Congress by an overwhelming, bipartisan margin, and signed by the President, simply extends the principle that exists in every other medium of communication in our society, a principle which has been repeatedly upheld as constitutional by the Supreme Court.

Stated simply, this principle holds that it is the responsibility of the person who provides material deemed pornographic, that it is that person's responsibility to restrict access by minors to that material. The foundation of the principle is articulated clearly in the case New York versus Ferber, and I quote from that case: "It is evident beyond the need for elaboration that the State's interest in 'safeguarding the physical and psychological well-being of a minor' is compelling." Let me repeat that judicial decision again, New York versus Ferber. "It is evident beyond the need for elaboration that the State's interest in 'safeguarding the physical and psychological well-being of a minor' is compelling."

This principle of compelling interest is the basis on which the Communications Decency Act was constructed. That is why we believe it is constitutional and the Court will hold it so after it hears the arguments next Wednesday. There is a long history of court decisions which recognize the interest of the State in safeguarding the psychological and physical well-being of minors. Mr. President, I have a copy of a brief in support of the Communications Decency Act. It was filed by a number of organizations: Enough is Enough, the Salvation Army, the National Political Congress of Black Women, the National Council of Catholic Women, Victims Assistance Legal Organization, Childhelp USA, Legal Pad Enterprises, Inc., Focus on the Family, the National Coalition for the Preservation of Family, Children and Family, Citizens for Family Friendly Libraries, Computer Power Corp., Help Us Regain the Children Organization—I am just reading some of these here—Mothers Against Sexual Abuse, National Association of Evangelicals, One Voice/American Coalition for Abuse Awareness, Religious Alliance Against Pornography, Lenore J. Weitzman, Ph.D., and so forth, a whole series of groups that have filed this brief. I commend these organizations for their leadership. I will be drawing on some of their comments in the brief during my remarks.

Mr. President, it is now beyond question that exposure to pornography harms children. A child's sexual development occurs gradually throughout childhood. Exposure to pornography, particularly the type of hard-core pornography currently available on the Internet, distorts the natural sexual development of children. Essentially, pornography shapes children's sexual perspective by providing them distorted information on sexual activity. The type of information provided by pornography does not provide children with a normal sexual perspective.

As stated in the brief, pornography portrays unhealthy or antisocial kinds of sexual activity such as sadomasochism, abuse, and humiliation of females, involvement of children, incest, voyeurism, bestiality, torture, objectification and is readily available on the Internet.

The Communications Decency Act is designed, as I said, to employ the same

restrictions that are currently employed, and have been held constitutional, in every other medium of communication.

Why do we need these protections? Let me quote Ann Burgess, professor of nursing at the University of Pennsylvania, when she states that children generally do not have a natural sexual capacity until the ages of 10 or 12, but pornography unnaturally accelerates that development. By short-circuiting the normal development process and supplying misinformation about their own sexuality, pornography leaves children confused, changed, and damaged.

Mr. President, this is not what the Congress wants. This is not what the American people want. We expressed that in our debate and in our vote in the last Congress. Surely we have not come to a point in our society where we find it tolerable that any pornographer with a computer and a modem can crawl inside our children's minds and distort and corrupt their sexual development?

As if the psychological threat of pornography doesn't present a sufficient compelling interest, there is also a significant physical threat. As I have stated, pornography develops in children a distorted sexual perspective. It encourages irresponsible, dehumanized sexual behavior, conduct that presents a genuine physical threat to children. In the United States today, about one in four sexually active teenagers acquire a sexually transmitted disease every year, resulting in 3 million sexually transmitted disease cases. Infectious syphilis rates have more than doubled among teenagers since the mideighties. One million American teenage girls become pregnant each year. A report entitled "Exposure to Pornography, Character and Sexual Deviance," concluded that as more and more children become exposed not only to soft-core pornography, but also to explicit deviant sexual material, society's youth will learn an extremely dangerous message: Sex without responsibility is acceptable.

Mr. President, it is clear that early exposure to pornography presents a disturbing psychological threat to children and a disturbing physical threat. However, there is a darker and even more ominous threat, for research has established a direct link between exposure and consumption of pornography and sexual assault, rape, and molesting of children.

As stated in a publication called, "Aggressive Erotica and Violence Against Women," virtually all lab studies established a causal link between violent pornography and the commission of violence. This relationship is not seriously debated any longer in the research community. What is more, pedophiles will often use pornographic material to desensitize children to sexual activity, breaking down their resistance in order to sexually exploit them.

A study by Victor Cline found that child molesters often use pornography to seduce their prey, to lower the inhibitions of the victim, and as an instruction manual. Further, a W.L. Marshal study found that "87 percent of female child molesters and 77 percent of male child molesters studied admitted to regular use of hard-core pornography."

Mr. President, all you have to do is pick up the telephone and call the FBI, ask their child exploitation task force about the volume of over-the-Internet attempts to seduce, abuse, and lure children into pornography and sexual exploitation.

I could go on and on, Mr. President, citing these studies, but there is really no need to do that. The evidence is clear. The compelling interest of the Government in restricting children's access to pornography is beyond credible dispute, both morally and legally.

The Communications Decency Act is a narrowly tailored law, designed to protect children from the pornography that is so widely available and easily accessed on the Internet. As I have said, it is a simple extension of the constitutional restrictions on such material that exist today in every other communications medium in our society.

The Communications Decency Act provides for the prosecution of those who utilize an interactive computer device to send indecent material to a child or uses an interactive computer device to display indecent material in a manner easily accessible to a child.

In addition, the Communications Decency Act encourages blocking software and other technologies by providing good-faith defenses designed to protect the good Samaritan attempting to block or screen pornographic material.

However, ultimately, it preserves the constitutionally established principle that pornography should be walled off from our children. To overturn the Communications Decency Act would represent a fundamental shift in paradigm, throwing our children into a hostile sea of pornography that threatens their psychological and physical well-being. I am confident that the Court will not be so callous with the basic well-being of our children.

Mr. President, I ask unanimous consent that a list of organizations in support of this brief to the Supreme Court in the case of Janet Reno, et al. versus American Civil Liberties Union, et al. be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD,as follows:

Brief Amici Curiae of Enough Is Enough, the Salvation Army, National Political Congress of Black Women, Inc., the National Council of Catholic Women, Victims' Assistance Legal Organization, Childhelp USA, Legal Pad Enterprises, Inc., Focus on the Family, the National Coalition for the Protection of Children and Families (and other amici . . .) in support of appellants.

CPI ADJUSTMENT

Mr. COATS. Mr. President, I want to call the attention of the Senate to an article that appeared in the March 13 edition of the Washington Post, headlined, "President Won't Back CPI Panel." This article discusses President Clinton's decision to not go forward with establishing an independent panel to examine the cost-of-living adjustments for Social Security and other Federal benefits. I think that is an unfortunate development because, clearly, there is bipartisan support for that effort. Members of both the Republican and Democrat Parties are on record and have made public statements saying that they believe this effort ought to go forward, whether it is an effort undertaken by a commission, or whether it is something that we engage in ourselves or ask the executive branch to do by Executive order.

Clearly, we are faced with a situation where we have to step forward, to lead, to address one of the most fundamental of all structural reforms necessary to curb the unchecked growth of entitlements.

Beginning with his State of the Union Address, the President has been telling the Congress and the American public of his desire to sit down and work out a solution to the coming entitlement crisis, and we have responded on our side by saying that we are willing to do this. In fact, in our budget last year, we recommended and voted for doing this. But now it seems obvious that, for some reason, the administration, the President and his party—and, frankly, a number of interest groups who have so much influence among those who oppose entitlement reform—plan to return to the same kind of rhetoric on Medicare and Social Security, and the same political tactics that serve to undermine the very health of the programs that they purport to protect.

Well, we don't have to go very far, Mr. President, to find out what the intention of the President and his party is in this regard, thanks to a former assistant to the President, Mr. Harold Ickes. In a pile of documents that Mr. Ickes recently submitted to the House committee investigating illegal activities at the White House, there was a revealing memo.

Rich Lowry, of the New Republic, recently reported that a February 1995 memo that Mr. Ickes sent to the President included "a proposed direct mail appeal to be sent by the Democratic

National Committee over [the chairman's] signature, focusing on the Republican proposal to recalculate the inflation rate, thereby reducing COLA payments on Social Security benefits."

The memo then goes on to provide a draft of the proposed letter giving some insight into the scare tactics that have been the signature of the DNC, the President, and organizations like the AARP, which refers to the CPI fix as "a cowardly, back-door political gimmick to take tens of billions of dollars out of the pockets of senior citizens."

This is familiar verbiage and familiar rhetoric. We have seen it now in campaign after campaign over the last decade. We heard it in last year's Medicare reform debate.

The letter goes on to say, "If the Republicans can force the Federal Government to lower its estimate of inflation, then they can dramatically reduce the cost-of-living-adjustments received by every Social Security recipient in America."

I ask, where is the bipartisanship in this statement? It is hardly a reference to what the President has been saying in terms of sitting down and working together to address a very real problem. And it is hardly an indication of how we had hoped to move forward addressing some of the serious problems in the Medicare trust fund and the Social Security system. One has to question how serious the President, and his party, really are about meaningful entitlement reform if they intend to continue to frighten seniors rather than honestly addressing the problem.

Mr. Ickes' proposed fundraising letter goes on to state, "We cannot remain silent while the new Congress finances another round of tax cuts for the wealthiest Americans by reducing the hard-earned benefits received by older Americans." The letter provides a preprepared petition to be sent to the then majority leader, Bob Dole, and Speaker NEWT GINGRICH saying, "I am outraged at the Republican plan to use phony inflation estimates to reduce the Social Security COLA's of America's senior citizens."

So the question here is, Is the President of the United States willing to step apart from the recommendations and rhetoric of his own party? Is he willing to step forward and provide leadership, as I think any President should, particularly when not facing reelection, on one of the most fundamental problems that we have as a nation and agree to a bipartisan process to preserve Social Security and reform Medicare for the long run? In President Clinton's State of the Union Address to the Congress, the President said, "We must agree to a bipartisan process to preserve Social Security and reform Medicare for the long run . . ." And Republicans, who had just been hammered to death over proposing that very same concept a year before, said, "Well, the problem is big enough that you are right. We ought to do that. Even though we may have a right to feel pretty bitter about how that effort was used against us electorally, we think it is important enough for this Nation that we ought to go ahead. So we will reach out in a bipartisan fashion."

So it is extremely disappointing to read here—I hope it is wrong but I think it is correct—that the President has abandoned his efforts at providing leadership for structural reforms within the Social Security and Medicare trust funds. But the President is not alone in his cynical attempt to scare our senior citizens.

I want to conclude my remarks by addressing another institution that has undermined our ability to accomplish what everybody knows we need to accomplish. No group has played a more destructive nor a more deceptive role in entitlement reform than the American Association of Retired Persons, known as the AARP. We know the AARP is that wonderful organization that only charges I think $8 to join once you reach the age of 50. I must admit I was a little shocked when I got my first mailing from the AARP. I think I was 45 when the first mailing came saying you are approaching senility here, and you had better join our group. I said, "I am not old enough for this. I thought retirement was 65 and over." But the AARP has wisely, from a financial standpoint, reached down and convinced people that at the age of 50 and lower they can take advantage of the benefits offered to the AARP. I am not ready to concede that I am ready for those benefits, although they are pretty attractive. For that 8 bucks you get access to all kinds of things.

But the problem is that on the issue most fundamental to the future of this country and to the future of senior citizens—Medicare and Social Security—the AARP takes a totally disingenuous, plays a totally deceptive role, a destructive role in terms of our ability to try to preserve those trust funds for future users and future beneficiaries.

We know that a train wreck is coming on entitlements. How do we know that? We know that because the board of trustees that included, at the time, three members of the President's Cabinet told us that this train wreck was coming. They told us that there is an urgent problem that we need to address on a bipartisan basis. And they told us that we cannot be prey to the political ranting and raving of self-serving organizations like the AARP. Robert Rubin, the Secretary of the Treasury, Robert Reich, then Secretary of Labor, Donna Shalala, Secretary of the Department of Health and Human Services, Shirley Chater, the Commissioner of Social Security, and the Acting Principal Deputy Commissioner of Social Security, told us, "Folks, there is a train wreck coming. You have your head in the sand. You are letting political demagoguery deter you from doing what you have to do. If you want to preserve Social Security, if you want to preserve Medicare and the benefits in Medicare, you have to get hold of this out-of-control entitlement process." We all know that.

Medicare part A is scheduled to be bankrupt—bankrupt—by the year 2002. The Social Security trust fund will begin running a deficit at 2013 and collapse by 2029.

That is not political rhetoric. Those are the conclusions of a distinguished panel of trustees that studied the system. And it comes out of this administration. It is not a group of Republican conservatives trying to kneecap the Social Security system. These are responsible people appointed by the President to serve on this panel. They are his own people. Yet, we go careening from election to election totally ignoring these warnings, knowing that somebody is going to have to pay an enormous price in the future, knowing that we are undermining the very system that we say we are trying to preserve.

And the group that is most responsible for putting pressure on us, politically demagoging this issue, is the American Association of Retired Persons. They continue to tell their members that there is nothing wrong with Social Security, that there is nothing wrong with Medicare, that there is no crisis. They continue to press Congress to block any solution. The AARP, the second-largest nonprofit organization in America, second only to the Catholic church, has a staff of 1,700 people funded by the dues of 33 million members along with $191 million in profits earned through the sale of insurance policies, mutual funds, mail-order pharmaceuticals, automobile rentals, automobile club memberships, Visa and Mastercard credit cards, and hotel room discount packages, and so forth. That is OK. I am glad they are in that business. I am glad they are providing those benefits to the seniors. Their expressed purpose is to serve the needs and interests of our Nation's elderly.

But, Mr. President, the only thing we hear up here from the AARP, other than requests for membership dues, is, if we dare even speak about addressing the problems of Medicare and Social Security, they are going to go after us politically.

Now we have this looming disaster with Medicare and Social Security. Once again, the AARP is joining hands with those who oppose the system to terrorize our Nation's seniors.

In a recent Insight magazine article, Horace Deets, the AARP's executive director, is quoted as saying: "Social Security has worked well for 60 years, and there is no reason to believe that it

is on the verge of bankruptcy . . . Social Security continues to work efficiently and effectively . . . Social Security does work." Where has Mr. Deets been? What does this man read? Has he read the trustees' report? Has he read this impressive document that has looked into this on an actuarially sound basis? Has he read the recommendations and conclusions that the whole thing is to come a cropper, that the very people he represents are going to be hurt badly unless we do something now, that we are heading for a train wreck?

I think maybe Mr. Deets should spend less time trying to collect dues from people and take a little time to read the trustees report on the future of Social Security and join us in a responsible effort which the trustees say will hurt less if we do it now, but is going to hurt greatly if we wait until later.

We cannot afford to wait. We cannot afford to pretend there is nothing wrong when everybody knows that is not the case. The changes we make now could be phased in over a period of time and would have minimal impact. But if we wait and follow Mr. Deets' advice, keep our head in the sand and pretend that there is no problem, it is going to come as a great shock and a great surprise to the 33 million people who rely on their AARP mailings when they find out that their own organization has led them down a blind ally, their own organization has sold them out, sold out to a political process that goes against the very best interests of their members.

Mr. President, I am disappointed by the action of the President. I am disappointed but not surprised. As a recent Washington Post editorial stated, you believe this White House "at your peril." With the AARP driving the politics and the decisions of the President and his party, I am sure we can anticipate even more fear mongering on entitlement reform. But ultimately we are going to have to find solutions to these problems. I fear that this difficult process will be made even more complicated by an unprincipled and a timid administration and a deceitful and self-serving American Association of Retired Persons.

Mr. President, with that I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

(The remarks of Mr. CHAFEE pertaining to the introduction of S. 445 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, there are several matters I would like to bring up, if I could. I ask unanimous consent to speak as in morning business so as not to interrupt the flow of the debate on the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

WENDELL FORD

Mr. DODD. Mr. President, I rise today to pay a special tribute to one of the U.S. Senate's most revered and remarkable Members. I speak of our senior Senator and our friend from Kentucky, WENDELL FORD.

Mr. President, I should note on a personal level I was a law student in Kentucky when WENDELL FORD was Governor of the State of Kentucky, and I developed a fondness and affection for him from afar as a student in that State at the University of Louisville many years ago. I had an opportunity to watch this man preside over State government in the State of Kentucky. He did a remarkable job. In those days I never thought, as I was sitting there as a student, that one day I would be serving in the U.S. Senate with him and calling him my colleague and my friend. It is with bittersweet emotions and sensations here that I rise to recognize, as others already have, that WENDELL FORD, as we all know, has announced he will not seek reelection in 1998 and will be retiring from the U.S. Senate.

I say bittersweet because on the one hand I am confident that our friend WENDELL FORD and his lovely wife Jean will enjoy some years of retirement, away from the hectic life of public service. So I am glad for him and glad for his wife and for his family. Obviously, on another level, I think all of us would agree, regardless of political persuasion or ideology, that we have come to develop a deep and sincere affection for WENDELL FORD. He will be truly missed in this body.

Just this past Monday, as of course we all know, Senator FORD announced his intention to retire from the U.S. Senate at the end of this term, concluding what I think has been one of the most remarkable and distinguished careers in the history of Kentucky. WENDELL FORD served his fellow Kentuckians for the past 30 years, first in the State senate of that State, then in the Governors Mansion, as I have already mentioned, and finally here in the U.S. Senate, where he has been a Member for the past 22 years. By the time he completes his term in 1999, WENDELL FORD will be the longest serving U.S. Senator in the history of the State of Kentucky.

Throughout my tenure as U.S. Senator, it has been my great honor to serve alongside this remarkable man. He has brought integrity and honesty and a wonderful sense of humor to a body that is far too often devoid of such characteristics. Although narrow and snappy sound bites and polished television appearances seem to garner the most attention in Washington, WENDELL FORD stands in sharp contrast. As long as I have known him, WENDELL FORD never saw a television camera he didn't want to simply walk past. As always, he is more interested in working behind the scenes, crafting legislation, seeking coalitions, seeking compromises. This is the essence of making the Senate function as a body that requires that we get along and work together to seek solutions that Americans look for.

Certainly WENDELL FORD is capable of being outspoken and passionate and as resolute as any Member of this body, but he has also understood there is a time for politics and a time for legislating and the two shall rarely intertwine, in his view. Throughout his career, he remained true to the people and places of his beloved Kentucky. Few Senators fought harder for their States than WENDELL has. As a Member of the subcommittee on aviation issues, he helped bring two international airports to Louisville and northern Kentucky. During the debate in the last Congress on the telecommunications bill, Senator FORD sought to ensure that the interests of rural communities all across America, such as those in his home State, would receive the attention that they deserve. On a national level as well, he has been a leader in aviation, energy, campaign finance issues, and his efforts have been instrumental in expanding airport improvement programs and other critical civil and Federal aviation issues.

As chairman of the Joint Committee on Printing, Senator FORD has helped cut millions of dollars in Government printing costs. What is more, he has spearheaded greater use of recycled paper by the Federal Government. These issues don't always get as much attention as they should, but certainly, as all of us appreciate as we try to reduce the cost of Federal Government to make it more efficient, things like bringing down the costs of printing, which is voluminous at Federal Government level, and to also see that recycled paper is used, are no small efforts indeed.

I know the major issue for many Americans, of course, was WENDELL FORD's effort to spearhead motor voter registration, which has made it possible for millions of Americans to become enfranchised. He certainly will be remembered for years to come for those efforts as well.

I know that bill had a special significance for WENDELL FORD because it gave him a chance to appear on MTV's Rock The Vote. WENDELL FORD is certainly an MTV kind of Senator. As most of us would appreciate, I say that with a sense of humor, to all who know and love him.

Most of all, I think WENDELL FORD has brought a sense of quiet dignity

and forthrightness to this Chamber. Always, he kept his word, never betrayed a confidence, and I doubt there is a Member of this Chamber who will not miss his presence.

It is worth noting, the other day an editorial in the Lexington Herald-Leader, I think, summed up the feelings all of us would have with the announcement that WENDELL FORD will not be with us at the end of this Congress. Let me quote that editorial. It said:

> We have known people who have disagreed with Wendell Ford. We have seen people get mad at Wendell Ford. We have even heard of people who wish Wendell Ford would finally lose an election. We have never heard of anyone, however, who doesn't like the senior Senator from Kentucky.

Certainly if that is true in the State of Kentucky, it is true in the U.S. Senate as well. We will miss him and we wish him and his wife, Jean, the very best in the years to come.

CAMPAIGN FINANCE REFORM

Mr. DODD. Mr. President, in his recent announcement that our friend from Kentucky, WENDELL FORD, will retire at the end of the term, he said something very instructive and most of us may recall it. It was only a few days ago. Those who love and know the Senator knows he never fails to be instructive in his uniquely witty way. The Senator from Kentucky said one major reason he was not running again was because he did not want to spend the next 2 years raising $100,000 a week. Those were his words, $100,000 a week to raise the necessary dollars to run for reelection in Kentucky.

With that statement, Mr. President, the Senator from Kentucky captured, I think, with crystal clarity, the essence of this debate over campaign finance reform. I think most of us would agree there is just too much money in our political system, and it takes far too much money for the average American to be a part of the political system. So I rise this afternoon to speak about campaign finance reform and what I believe we must do to fix our campaign finance system.

As my colleagues know, I just completed a 2-year term as the general chairman of the Democratic National Committee. I did not ask for that job, but, nonetheless, I am very proud to have been asked to serve in that capacity, an honor bestowed on two other Members in recent years. The former majority leader, Bob Dole, served as general chairman of the Republican National Committee, and Paul Laxalt served as general chairman of the Republican National Committee.

My tenure as general chairman brings a unique perspective to campaign finance reform. I wish to speak briefly about the Hollings campaign finance reform constitutional amendment and the McCain-Feingold finance reform bill that is pending before this body.

I will also, as I said earlier, speak about the role of the Federal Election Commission in our campaign finance system and will introduce a bill shortly that I think will strengthen the FEC and enable it to do the job with which it has been charged by the U.S. Congress.

Mr. President, we have been speaking over the last few days about amending the Constitution, and, like most of my colleagues, I am extraordinarily wary of constitutional amendments. I believe, as I think most do, that our Constitution is a sacred organic document that has guided our lawmakers and this Nation and protected our rights successfully, by and large, for the past 200 years.

The citizens of this Nation have found it necessary to amend the Constitution only 27 times in over 200 years, 17 times since the Bill of Rights was written, and they have been wise, I think, in that restraint. But more than 20 years ago, the Supreme Court ruled in what I believe to be a flawed decision by that Court, the Buckley versus Valeo decision, that very simply, money equals political speech.

I have never quite seen the logic in that decision. I believe that the poor woman next door who can only make a very small or no contribution at all has just as much right to be heard as someone who can make a sizable contribution, and, yet, obviously the voices have different weight. So I do not believe we ought to necessarily assume because people can or cannot make a contribution that their voices are going to be heard with the same volume and intensity.

I am not alone in this assessment that the Buckley decision is flawed. Fifty prominent constitutional scholars led by Ronald Dworkin, and 24 attorneys general, believe the Buckley decision was simply wrong.

So, while money floods endlessly in our election system, the voice of the average American too often is drowned out. My fear is democracy will be the victim. I repeat, I am extremely wary of amending the Constitution, much less the first amendment, but I have come to the conclusion that there is simply too much money in the system and that our campaign finance troubles are so great that I think an amendment is warranted in this case. Therefore, I am lending my name as a cosponsor and will be supporting the constitutional amendment when it comes for a vote before this body.

But I think we must also be realistic. The fact is that this amendment is going to fail. There are not enough votes to carry it. I know that, and I think the Senator from South Carolina does as well. The process of passing this amendment would be a long and arduous one, if it is ever passed, and I understand that as well.

We simply cannot, however, let our democracy languish, in my view, in the current campaign finance system any longer, much less until we are able to pass a constitutional amendment, which makes clear everyone has a right to be heard regardless of how much money they have, how deep their pockets are. That is why I am a strong supporter of the McCain-Feingold legislation that has been the subject of much discussion over the past several months.

One of the McCain-Feingold's great advantages is that it is written with the Supreme Court's Buckley versus Valeo decision, in mind. Trying to avoid the assertions that have been made by many, and I believe with good reason, they are concerned whether or not this bill would actually pass constitutional muster. But I think Senator MCCAIN and Senator FEINGOLD have gone out of their way to try and craft this bill in such a way as to answer those concerns that have been raised by legitimate scholars of the Constitution and legitimate scholars of the Buckley versus Valeo decision.

The bill acknowledges, as I am sure the Presiding Officer knows, the constitutional constraints laid out in Buckley, and it tries to fashion a workable solution to most of our campaign finance problems, including the soft money issue, within those constraints.

Since the opening gavel of the 105th Congress, the Senate and the House, and much of Washington—of course the media—have spent countless hours discussing the fundraising practices that have been raised during the 1996 elections. Finally, a couple of days ago, the Senate finalized the budget and scope of the investigation into most of these alleged improprieties.

It will be an investigation that will examine aspects of both Presidential and congressional elections, performed with a reasonable amount of money, in my view, and within a reasonable amount of time.

Mr. President, you may recall, and others may recall, that I abstained during those votes. I did so not because I did not support the investigation. On the contrary, I do support the investigation. I think it is necessary. Rather, as I explained before the Rules Committee last week, I did abstain in order to avoid any question about the motives that I might have in casting votes on various matters that could have come up.

As it turned out, we had only a couple of votes, and they were carried unanimously in this Chamber. I could not have anticipated that, given the division during the consideration of the resolution in the Rules Committee and prior to the consideration of it when it came to the floor of the Senate. I did not want my motives to be impugned

or second-guessed and decided, having served as the general chairman of the Democratic National Committee, I would abstain on the votes affecting that investigation and that committee's work.

I am glad, as I said earlier, that an agreement has been reached unanimously, and I hope it will get us to the bottom of all of the alleged misdeeds that have been raised by everyone in this process, Republicans, Democrats, and others.

That said, I think it is clear that while Americans want us to find out what happened in 1996, it is just as clear that they are also asking us to fix a system that led to the alleged problems that occurred in 1996. Indeed, Americans have been urging us for quite some time to fix our campaign finance system, and I do not think we need to wait much longer or go through lengthy hearings to analyze the various proposals and ideas that have been suggested.

We need not wait for an investigation. We do not have to wait for the conclusion of a debate on a constitutional amendment. The McCain-Feingold legislation, I think, is the way we can do that, and I believe we should do it now. Indeed, the questions raised during the last election about campaign finance spending serve, I think, to highlight the critical importance of the need for immediate legislative action.

Over the past 10 years, Mr. President, this Congress has spent a great deal of time looking at our campaign finance laws. Let me share with you a litany of how much we have accumulated in terms of testimony and ideas that have come forward.

The Congress has produced in 10 years 6,742 pages of congressional hearings on campaign finance reform. There have been 3,361 speeches that have been given on the floor of this body on campaign finance reform. There has been over 1,000 pages of committee reports on campaign finance reform. There have been 113 votes in the U.S. Senate on campaign finance reform. We have heard from 522 witnesses before the U.S. Senate on campaign finance reform. And we have had one bipartisan commission established to examine campaign finance reform and make suggestions. And yet, at the conclusion of all of that, Mr. President, we are no better off today than we were 10 years ago on this issue.

So while I am certain there will be additional hearings this year, I would urge those who may be interested in examining various ideas—I am quite confident the bulk of the speech and documents and hearings and testimony already accumulated, the amount of evidence, I think, would provide us with the basis for crafting legislation and answering the questions that have been raised.

Survey after survey of Americans in this country indicates that people believe our campaign system is in desperate need of reform. What is worse, the same surveys indicate that the American people's lack of faith in the campaign system is translating itself—this may be the most serious problem aside from the issue of campaign contributions and donations—the most serious problem may not be that, as bad as that is, but the lack of faith, the declining level of faith that the American people have in our democratic institutions. For that is at the very heart of what is at stake here.

Some of our colleagues who oppose reform have said we need more, not less, money in politics. Well, Mr. President, we have gotten more. There is no question about it—a fourfold increase in campaign finance donations in just the past 8 years, from $220 million raised by both parties in 1988, to $881 million raised in 1996, a 73-percent increase over 4 years ago—a 73-percent increase in political costs since 1992. While wages rose 13 percent and education costs rose 17 percent during that same period of time, the cost and expenditures of campaigns rose 73 percent.

And what has all that money done? How has it paid off? One might assume, well, if we spent more money and more people are involved today, more people are participating, maybe it is worth it. That assumption is clearly wrong.

Last November, Mr. President, only 49 percent of the eligible population in the United States of America bothered to vote in a Presidential election. That is the lowest turnout since the 1920's, more than 70 years ago. So while the dollar volume has increased, the amount of ads have risen, and proliferation about people's points of view have certainly grown tremendously, we are watching an inverse reaction and fewer and fewer people seem to be participating in the process.

While there is a great deal of attention, obviously, in the media and here on Capitol Hill on the Democratic Party's efforts to raise campaign funds, I think it is important that we try to put this issue in perspective.

First of all, let me say at the outset, Mr. President, I think that my party, the Democratic Party, made a huge error in 1993 when President Clinton was inaugurated into office. The Democrats were in the majority in the U.S. Senate. We were in the majority in the House of Representatives. We should have passed, in my view, campaign finance reform, and we did not. I think those who wish to take us to task on that issue are right in doing so. We made a mistake. And we missed an opportunity.

Having said that, Mr. President, the mistake should not be compounded, in my view, by letting the succeeding Congresses go on without trying to come to terms with this issue. And if nothing else comes out of the great attention to what happened in 1996, then maybe, just maybe, that as a result of the attention being paid to what happened, we might finally get an opportunity here to come together and pass some meaningful campaign finance reform.

But, Mr. President, I cannot resist in pointing out as well that when it comes to the question of dollars raised in these efforts, of course, in the last cycle our friends on the Republican side raised $549 million compared to the $332 million raised by the Democratic Party.

Second, of course, Democrats have long supported reform. Many Republicans do as well. In fact, the lead cosponsor of the bill that I mentioned earlier, the McCain-Feingold, is a Republican. For those who may not be familiar with our colleague from Arizona, JOHN MCCAIN is a Republican, and RUSS FEINGOLD is a Democrat from Wisconsin. And yet despite that, in the previous Congress we had 46 out of 47 Democrats support JOHN MCCAIN's bill along with RUSS FEINGOLD. But it failed to muster the necessary votes to break a filibuster.

We had a majority of people here that were willing to at least bring the McCain-Feingold bill to the floor, but you need, of course, a supermajority to break a filibuster. We never could produce the supermajority even to bring the bill up so the people could offer their ideas and suggestions on how they might modify or amend the McCain-Feingold proposal.

Mr. President, I have been involved in these issues for some time, going back to 1979 when some of the first proposals were offered on limiting political action committees. I count about 6 proposals that have come up in the past 10 years or so, mostly in the mid-1980's, which I supported and was anxious to see come to a vote.

I am a cosponsor of the McCain-Feingold bill and was when it was first introduced in 1995.

Let me quickly say about the McCain-Feingold bill, Mr. President, this is hardly what I would call a perfect piece of legislation. I have never seen one of those anyway, and this certainly does not fall into that category either. And there are areas, clearly, where I think some changes may be necessary.

But, in my view, Mr. President, it represents the best place to begin. If our standard is going to be that we will not bring up legislation unless it is perfect, then we would never bring up any legislation. And so, McCain-Feingold, I think, ought to be the proper vehicle. It is the one that has garnered the most attention and support, and, as I said earlier, it does try to track very carefully the concerns that were raised by the Buckley versus Valeo decision.

It is clear, I think, if we were truly and effectively to clean up our campaigns, we must provide the appropriate agency, however, with the tools to do so.

Mr. President, we must give, in my view, the Federal Election Commission the power to promptly and effectively enforce the laws. It has been suggested that we do not need new laws; we just need to make the present ones work. There is some legitimacy in that. It is not entirely wrong.

We need also, I argue, to be able to enforce the laws that today prohibit certain activities. But I think one thing that was said over and over again last fall and this winter is, the very agency we created and charged with being the cop on the beat when it comes to campaign finance reform is basically a toothless tiger. We created an agency and then deprived it of the tools and the resources necessary to do the very policing that ought to be done to help try and avoid some of the problems that some have suggested have occurred, in this past campaign.

Over the past few years, the sheer number of cases, Mr. President, that the FEC has dealt with is growing, and the growing complexity of campaign laws and a series of counterproductive court cases are making it increasingly difficult for the Federal Election Commission to fulfill, in my view, its watchdog role in a timely and effective manner.

I sat through the testimony of the FEC before the Rules Committee a few weeks ago, Mr. President. I was shocked to learn, for instance, the tremendous backlog in the caseload at the Federal Election Commission and the sharp increase in the activity that the Federal Election Commission has been asked to oversee.

At the end of December, the FEC had a total caseload of 361 cases. Because of reductions in staff, only 112 of those cases are active, compared to 160 active cases in 1995.

And the case filed in October, I might point out, by the Democratic National Committee, in which the Democratic National Committee asked the FEC to investigate its campaign fundraising in the 1996 elections—I might point out, even before the election had occurred—I discovered has not even begun yet. Here we are in the middle of March, and a request was made in October to look at allegations involving the Democratic National Committee has not even begun. That was prior to the election, and they have not even begun to look at the issues because they lack enough staff to do so.

Here is the body and the organization, the agency, as I said earlier, that is the cop on the beat, and they have not even begun to look at the questions that were raised last fall.

Add to that heavy 1996 workload of regular cases, Mr. President: In 1996, the FEC was asked to examine 33 percent more complaints than it did in 1994.

Congressional spending in 1996 general elections was $626.4 million—just the congressional elections here—$626.4 million. That was an increase of about 7 percent since 1994 levels, 2 years earlier. It was the FEC that had to oversee this spending.

And an unprecedented $2.5 billion in financial activity was reported to the Commission in 1996.

In my view, Mr. President, a restructuring and strengthening of the Federal Election Commission is long overdue. That is why today, Mr. President, I will be introducing Federal Election Commission improvement legislation.

I have not written an aggressive or radical proposal to overhaul the FEC. Rather, this bill stands as a modest effort to give the FEC the resources and the authority it needs to properly enforce our campaign finance laws.

Because, Mr. President, I so strongly support the FEC improvement provisions in the McCain-Feingold bill, the proposed legislation I will offer shortly simply repeats them. I also add a few other provisions of my own.

I have heard numerous colleagues say over and over again, campaign finance reform is not the issue in 1997.

It is the illegalities of 1996 that many say must be the issue. Yet, at the same time as they make that assertion, we hear that they are against funding and providing the authority to the very agency that should be the first one to uncover and punish any wrongdoing.

If we are serious about enforcing the law, Mr. President, then the bill I introduce today deserves serious and, I hope, favorable consideration by my colleagues. The Federal Election Commission has been called a toothless tiger, and it is; an ineffectual agency, and it is; a monument to congressional paralysis, and it is. It is time to change it.

My bill authorizes full funding for the FEC, including a $1.7 million supplemental fiscal year 1997 appropriation to enable the Commission to handle this increased workload that I have enumerated.

And to satisfy our friends who have said that we must try and get as much reporting and disclosure as soon as possible, this legislation also requires electronic filing. Increased disclosure is the magic elixir, some have suggested, so by mandating electronic filing at the Federal Election Commission for all Federal candidates' reports, we would ensure that disclosure reports are available in a timely fashion. Too often the reports become available weeks and months after the election is all over with. Electronic filing would allow you to know instantaneously exactly where the campaign contributions are coming from prior to an election, on a timely basis during a campaign. Today the technology exists to do it. This legislation would require, mandate, electronic filing by all candidates for Federal office.

Furthermore, the legislation would allow the FEC to establish standard fines for minor reporting violations and conduct random campaign audits. That had been stopped and prohibited. Nothing, I think, would have a more salutary effect on campaigns than to know that you could be the subject of a random audit at any time. This, I think, would help strengthen the FEC's ability to report to the Congress on the kinds of practices that ought to give us concern, and possibly the subject of further reform.

I think we must acknowledge, Mr. President, that the Federal Elections Commission was charged with the responsibility of enforcing our election laws, and that part of the reason our election system is so out of control is that Congress, in my view, has refused over the years to provide the FEC with the ability and the tools to carry out the duties that we have charged them with performing.

As we rush to establish Federal investigations into election law violations, let us not forget we do have an Agency balanced with Democrats and Republicans that is charged with the very responsibility we have just taken upon ourselves.

In my view, Mr. President, the FEC must be given the ability to do its job, and that is the goal of the legislation I will be proposing.

I conclude, Mr. President, by adding that genuine campaign finance reform will not occur it we do not elevate the issue above partisanship. It is not a Democratic or Republican issue. As I mentioned earlier before the Presiding Officer arrived in the Chamber, I think the Democrats made a huge error in 1993 and 1994 when we had an opportunity to do something about campaign finance reform. The Presiding Officer was a Member of the House of Representatives in those years, and so we are properly criticized, in my view, for not acting.

Having said that, I do not think we need to necessarily perpetuate that by not stepping forward in these coming weeks and try to take steps to strengthen the FEC, pass McCain-Feingold with whatever amendments people want to offer, and try to provide some framework. I think there are issues which we will find great unanimity of support, given the chance for expression here on the floor of the U.S. Senate, obviously while going forward with the investigation, and to allow the Justice Department and others to do the work, of course, which they are charged with doing. All of these efforts, if done properly and well, I think, can at the end of the day, provide us with a different system than we presently have.

So the future Wendell Fords of this body who, when they consider whether or not they ought to seek reelection, as he announced in his statement, would not look at the prospect in March, as many as 18, 20 months before election day, of raising, as he felt he would have to do, $100,000 a week for 80 weeks in order to be a viable candidate for a State the size of Kentucky—not to mention, of course what it costs in other States like my colleague from Pennsylvania, or California, New York, Florida, Illinois, or Ohio. In large States with huge populations, these numbers become astronomical. If it is going to take that on the part of individual candidates, then, I think, obviously the results speak for themselves.

I appreciate the opportunity to address this issue. I am going to send to the desk and ask that this bill be reported to the appropriate committee to strengthen the Federal Election Committee so it can do its job. I thank the Presiding Officer and my colleague from Pennsylvania.

The PRESIDING OFFICER. The bill will be referred to the appropriate committee.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I had come to the Senate Chamber to speak on the resolution on the independent counsel but on my way I noted the morning press have comments to make in advance of that. However, before my distinguished colleague from Connecticut leaves, I agree with him on some of what he has said. I will not go into the parts where I disagree with him. It would take too long.

When he talks about the Federal Election Commission, strengthening the Federal Election Commission, funding adequately the Federal Election Commission, I think that is something that ought to be done. The Federal Election Commission needs to be able to pursue alleged election violations. They have very broad powers and we have heard very little from them. It may be that their investigations are yet incomplete. But it also may be that if they had sufficient investigative resources they might have done more already.

We do not need to await the results of the Governmental Affairs Committee, on which I serve. We are just getting started with the funding authorization. Nor do we need to await the results of the public integrity section, the FBI or their investigations, nor do we need to wait to see what will happen with the independent counsel, as I will address in a few moments.

We have a Federal Election Commission, and were they strong enough they could have acted already on these very, very important matters.

Mr. DODD. I made the point last October when the allegations arose about the Democratic National Committee, Don Fowler, who is the chair of the DNC, and myself, asked the FEC to immediately conduct an investigation into these allegations.

The FEC came before the Rules Committee a couple of weeks ago to present its budget, as they do on an annual basis. I asked them how the investigation was going. This was now March. I was stunned to have them report they have not even begun to look at this.

So here is a request made 6 months ago on, obviously, a very serious matter, and they have not even begun to work on it. The reason, they say, is the caseload is backed up so much on them and there has been a reduction in their staff allocations. Now, obviously, more probing about that may be necessary.

Mr. SPECTER. Did the Senator make a suggestion that they might look upon the current matters on a priority basis? I had not known of the request which was made, obviously. It is surprising to me that in light of the pressing public policy on current matters that they would not address them but would be addressing other matters.

Mr. DODD. That is a good point.

Mr. SPECTER. It is a matter of prioritizing. We have a hemorrhaging system. There is blood on the floor and there is blood coming out of the patient. I would think as a matter of priority they would at least address that and try to give some first aid. I do not know what they have found, and I do not know the specifics upon what injunctive relief they might seek, but they have attorneys that might look at the current system and act now.

They are a constituted agency and they have conducted criminal investigations. They could work this in the civil field. It comes as a surprise to me when a Senator of your standing, Senator DODD, makes that suggestion to them, and months go by without any response to it.

Mr. DODD. I thank my colleague, Mr. President, for his observations. I do not think I asked that question because I think I was so stunned by the response, I assumed things were moving along. I do not know how they determine—of course, it is a bipartisan Commission—how they determine what basis they look at matters, but I do not disagree.

My colleague has been generous in his comments.

A TRAGEDY IN JORDAN

Mr. SPECTER. Mr. President, I came to address the subject of independent counsel and, en route, I picked up the morning newspapers. I am horrified by what has occurred in Jordan. The headline is blaring: "Jordan Soldier Kills Seven Israeli Schoolgirls."

The lead report from the Philadelphia Inquirer is:

> A group of Israeli schoolgirls was standing on Peace Island yesterday, overlooking the Jordan River and fields of wild yellow flowers, when a Jordanian soldier opened fire with an assault rifle, killing seven students. Six other pupils were wounded, as girls dove into the bushes and screamed for help.

After seizing a comrade's M–16 rifle, the soldier fired from an observation tower, then descended and chased the screaming junior high school girls down a hill firing wildly.

According to a report in the Washington Post, Rosa Himi, a teacher of the Orthodox Jewish school in Beit Shemesh, near Jerusalem, that the 51 students attended said:

> At the beginning, Jordanian soldiers didn't overpower him and didn't do anything. . .. They even pushed one of our teachers and wouldn't let him near the injured girls to care for them. It is only when he failed to put his second [ammunition] clip in the gun that the other soldiers took him.

It is really a very shocking turn of events, Mr. President, in circumstances where one would almost think we were beyond the point of being shocked. There is a sequence of violence that has occurred—candidly, with both sides—like the event at the tomb of Abraham some time ago, where an Israeli fired on people. I suggest that it really requires a new level of sober examination as to what is going on in the Mideast and what the so-called "leaders" in the Mideast are doing which is really inflammatory. King Hussein had sent a letter to Prime Minister Netanyahu, saying that Prime Minister Netanyahu was engaged in the deliberate humiliation of Arabs and was accumulating tragic accidents leading to bloodshed and disaster brought about by fear and despair. There have already been suggestions from a number of quarters that King Hussein was inciting a riot by those inflammatory statements.

I think it is inappropriate to join that chorus. But I do think that King Hussein and others have to tone down the rhetoric and have to be a lot more thoughtful than they have been. I know King Hussein—not well, but I have had occasion to talk to him when he has been in Washington. I talked to him when I have visited in Jordan. I do believe that King Hussein is sincere in his efforts for peace.

The morning press comments about the Crown Prince of Jordan coming to the scene and that he was stricken with remorse and grief, as King Hussein's statements issued after this tragedy reflected his own view. But what is happening in the Mideast requires that there be more restraint by people like King Hussein. That, of course, is easy to say after the fact. But I think it has to be said.

We are now seeing a conference in Gaza, sponsored by the Palestinian Liberation Organization and Chairman Arafat, where the United States has agreed to participate and Israel has been excluded. I joined a large group of Senators in writing to President Clinton yesterday, urging the President to

change his policy on that. In my judgment, and in the judgment of many of my colleagues far beyond this Chamber, there is a strong view that there ought not to be a conference where Israel is excluded. There will be no peace process in the Mideast to which Israel is not a party. For Chairman Arafat to convene a group of representatives of nations of the world to meet and talk about the peace process, which will inevitably involve charges of impropriety by Israel because they appear in the international media daily, without having Israel as a party to that process and allowing Israel an opportunity to reply, it seems to me to be absolutely inexcusable.

We ought not to be saying that parties in interest, like the Palestinians and the PLO, ought to be gathering international strength to attack, impugn, or otherwise move against a party to the peace process. If there is going to be peace, it is going to have to be worked out between the Palestinians and the Israelis. To have this kind of conference compounds the tragedy in Jordan, and I do hope, yet, that the administration will rethink what it has undertaken to do.

I know that a good many of these issues come before the Congress, come before the Senate, come before the Appropriations Committee, on which I serve, and before the Foreign Operations Subcommittee, where we are asked to appropriate money. We are now about to be asked to appropriate additional funds. The Congress does not have the power that the President has to conduct foreign affairs, although we do have considerable power in the appropriations process, the power of the purse. We are looking at requests for aid to Jordan. In fiscal year 1997, we gave Jordan $67.1 million. In fiscal year 1998, the President has made a request for $74.2 million, an increase of $7.1 million. Jordan is also asking for an additional $250 million in funding per year over the next 5 years. I have already been lobbied, individually, about supporting that increase in funding for Jordan.

The initial reaction that I had goes back to Jordan's conduct during the gulf war, where I and many others in this body, many other Americans, and many others around the world were very unhappy—to use a very mild term—with what Jordan did in aiding and abetting Iraq and Iraq's President, Saddam Hussein. They were complicitous in helping Iraq in that war, where American lives were laid on the line and American lives were lost.

A GAO report in February 1992 found specifically that Jordan gave Iraq access to American technology, that Jordan shared intelligence from the American-led coalition. When that happened, it seemed to me that there were strong reasons not to continue to give foreign aid to Jordan. Jordan was giving aid and comfort to Saddam Hussein at a time of international crisis and war—a war which was authorized on this floor in debate that I very well remember back on January 10, 11, and 12, 1991—where notice had been given by the U.N. resolution that a war would be started on January 15.

So, speaking for myself on the Appropriations Subcommittee—and we make the first cut on aid, and that usually stands up with what the Appropriations Subcommittee does—I have grave reservations about aid to Jordan, and certainly about increasing aid to Jordan. And now to find the sequence of events in Jordan as to what has happened, and it follows in sequence, King Hussein's statement, I think that we have to be very reflective as to what aid and what American dollars we are going to give to Jordan.

One of the press reports contains a notation that a woman identified as the mother of the individual who fired the shots said that her son is mentally ill. Now, I don't know whether that is true or not, but I do know that if there is an indication of that, it requires an investigation and a determination by Jordanian officials, and perhaps by an international group, as to why you have somebody identified as being mentally ill in a situation to acquire the firepower which led to this tragedy. Those are all questions, Mr. President, that I think need to be answered.

When we look at the appropriations process, a commitment has been made by the United States to give some $500 million to Palestinian authorities. Senator SHELBY and I offered a resolution which requires as a precondition to that funding that the Palestinians do two specific things: No. 1, change their charter which calls for the destruction of Israel and exercise efforts to stop terrorists. And I think, Mr. President, there is good reason to believe that the Palestinians have not fulfilled those requirements. What the Palestinians did was have a convention and say that everything in their charter inconsistent with the declarations of September 13, 1993—when Chairman Arafat was honored at the White House—would be null and void. But that is a long way from picking up the charter and specifically rejecting provisions of the charter which call for the destruction of Israel. This is something which Senator SHELBY and I discussed with Chairman Arafat in January 1996. This is something that Senator Brown and I discussed with Chairman Arafat in Gaza in August 1995. And this is something which a group of Senators, including this Senator, discussed with Chairman Arafat downstairs in the Capitol last week.

When these matters are called to Chairman Arafat's attention, he brushes them aside. He pooh-poohs them. He says, "Well, we have already done all that needs to be done." And the reality is that they have not done what the Specter-Shelby amendment calls for.

When it comes to the issue of fighting terrorism, I think again there has been insufficient action. There are terrorists who have been identified by Chairman Arafat and the Palestinian authorities who have not been turned over to Israel. I personally took a list of those which I had obtained and verified. I discussed them with Chairman Arafat. He had one excuse after another why that was not done. There are weapons in Palestinian-controlled territory which are supposed to have been identified and turned over. And that has not been done.

The President has certified that there has been sufficient compliance with the Specter-Shelby amendment. The President can make a certification. There is nothing that the U.S. Senate can do about that short of the appropriations process. But these are issues which I intend to bring to the subcommittee when we take a look at the moneys we appropriate this year.

The President has great authority, but he cannot appropriate money. He can veto appropriations bills, but he cannot appropriate money. That has to come from the Congress. That has to come from the House and from the Senate. When it comes to the funding for Jordan, or when it comes to the funding for the Palestinians, and we see them holding this meeting this weekend, the President may think that is fine. If he thinks that is fine, he can send a U.S. representative. But if the appropriators disagree with him, if the Congress disagrees with him, we don't have to appropriate money. That has to be taken into account by the President when he sets U.S. foreign policy.

So I make those comments. It is really very, very sad what has gone on, for the bloodshed of these seven girls and for the bloodshed which previously has occurred. I believe that we need some sober leadership to defuse the situation and to understand that there are very, very difficult problems facing the parties there. When Prime Minister Netanyahu takes steps that he has to withdraw a certain percentage from the West Bank, and he does so after a closely contested vote in the Israeli Parliament and the Israeli Cabinet, that is about as far as he can go. When those actions are rejected by Chairman Arafat, and Chairman Arafat gets aid and comfort from the President who criticizes what Israel did and from King Hussein who criticizes what Israel did, then I suggest that those matters really have to be worked out by the parties, and not by long-distance advice from the United States, or even short-distance advice from Jordan. But we had better tone down the rhetoric.

We had President Mubarak this week in Washington. He met downstairs in the Foreign Relations room. President Mubarak gave some good advice to

those of us who were listening. It is worth repeating. President Mubarak said that the rhetoric ought to be toned down about Jerusalem. You have declarations by the Palestinians that Jerusalem is the inviolate capital of the Palestinians and that the Palestinians are going to assert and succeed in that. And you have rhetoric at a high level by the Israelis saying that Jerusalem will be undivided and will not be a matter for Palestinian influence.

What President Mubarak was saying is, let's stop the rhetoric. Let's stop the declarations which incite people in the area. Let's tone down that rhetoric. And I think that is very good advice, indeed.

APPOINTMENT OF AN INDEPENDENT COUNSEL TO INVESTIGATE ALLEGATIONS OF ILLEGAL FUNDRAISING

The Senate continued with the consideration of the joint resolution.

Mr. SPECTER. Mr. President, I see my colleague, Senator DORGAN, on the floor waiting to speak. So I shall not take too long in commenting on the resolution calling for independent counsel, Senate Joint Resolution 22. But I came here to speak on this subject, and I think the time is past for independent counsel.

Independent counsel should be appointed where there is credible evidence that there had been criminal violations. You don't have to prove the case. Credible evidence is really a statement of prima facie which takes the case from the grand jury and on a fair evaluation as to what has occurred and what has been made public. It is my legal judgment, having some experience in the field, having been district attorney for Philadelphia for 8 years, and having served on the Judiciary Committee for many years, that we have long since passed that point.

It is not a partisan issue. It is not just Republican Senators who are saying that. The same call has come on the other side of the aisle from Democrats. You have ranking officials who have been involved in fundraising in religious institutions which raise violations of Federal law in a fairly clear-cut manner. You have, again, ranking officials who have engaged in campaign practices. Dick Morris was cited by the President himself as having identified the commercials. We know the President is bound not to accept additional money when there is Federal financing, which there was. And millions of dollars were raised, again, on both sides. Those moneys were used to further the President's campaign in 1995.

There is an issue about advocacy as opposed to the candidates themselves. But that line, I think, has been crossed. Certainly, there is credible evidence which warrants an investigation.

The day before yesterday the Judiciary Committee dealt with a resolution on this subject. Yesterday, a letter was circulated, which I signed, which was sent to the Attorney General requiring an answer within 30 days. She does not have to agree with the letter which was sent, but she does have to respond.

Mr. President, we know what has been in the public media. We know that an investigation has been conducted by the Public Integrity Section and by the FBI. The question is raised as to what that investigation has disclosed, which is known to the Attorney General. I believe we ought to have an answer from the Attorney General based upon what has been presented to her from the public record, and an inquiry as to what she knows from the confidential record that she is privy to.

When the grand jury investigates, those matters are secret. When the FBI investigates, those matters are not made available to the Judiciary Committee. But we have presented a substantial body of material, and I believe we are entitled to an answer not only as to that, but a certification, in effect, from the Attorney General as to what she may know beyond what is in the public record, because that investigation has been going on for a long time, and she is privy to what has occurred with the investigation of the FBI and with the investigation of the grand jury. I think we are entitled to a response on that basis. But there is sufficient material on the record.

It is my hope that we will not have a filibuster on this resolution but we will be able to take it to a vote. As Senator DODD said at some length about the filibuster against the McCain-Feingold bill, I broke party ranks, as did a number of Republicans, in voting for cloture on that matter. I am not satisfied with the McCain-Feingold bill, which I have not cosponsored. But I do believe the matter ought to come to the floor and that we ought to offer amendments. We ought to see if a majority of the U.S. Senate is willing to pass campaign finance reform.

Similarly, on this resolution calling for independent counsel, I think we ought to have a determination up or down as to whether a majority of Senators agree with the letter which we sent over to the Attorney General calling for independent counsel.

I thank the Chair for sitting on this Friday afternoon when most of our colleagues have left town, and I will soon be returning to Pennsylvania.

I yield the floor.

Mr. DORGAN. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to proceed for 20 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIME IN AMERICA

Mr. DORGAN. Mr. President, there are a good many issues that come to the floor of the Senate that cause debate between Republicans and Democrats. Some are partisan, some cause great rancor, but there is one issue that ought not ever be a partisan debate. That is the issue of crime and how we in our country address it.

I come to the floor today to speak about legislation I will formally introduce on Monday on behalf of myself and a Republican colleague, Senator CRAIG, from Idaho. We have joined together to offer a piece of legislation that we introduced in the last Congress. I think this bill makes a great deal of sense, and I hope the Congress will consider it favorably in this session. As a way of describing the legislation, I want to address why I think legislation in this area is necessary to deal with the issue of crime.

There are a lot of things in this country we can point to that suggest our country is headed in the right direction. Our economy is growing. Some would like it to grow faster, but it is growing. We are not in a recession. You can point to some pretty good things in our education system. Not many people are getting on airplanes and leaving our country to go to college somewhere else. If you want to go to a world class university, largely you would want to be in the United States to do that. If you want to get good health care, you do not get on an airplane to go elsewhere. The best health care available in the world is available in most cases in this county. After doubling our use of energy in the last 20 years, America has cleaner air and cleaner water than we had 20 years ago.

So you can point to a number of things in this country that give cause for great optimism. But in the area of crime, I at least, and I think a lot of my colleagues and the American people, have a nagging feeling about the lack of safety and security in our country, that something we are doing is not working, that we seem to be on the wrong path. I know that some people point to crime statistics and say violent crime has declined. But when violent crime spikes way up and then drops marginally, violent crime is far too high in this country.

Here is a crime clock. One major criminal offense occurs every 2 seconds in our country, one violent crime every 18 seconds, one murder in America every 24 minutes, one forcible rape

every 5 minutes in our country, one robbery every 54 seconds, one aggravated assault every 29 seconds. You cannot as a citizen of this country review what is happening on our streets and in our neighborhoods and believe we are on the right track with respect to crime.

This morning I read a piece in the Washington Post that described some of the concerns I have expressed before in this Chamber. It says, "Inmates' Early Freedom Rankles Many in Florida."

This article says: "Frank O'Neal got the news that his brother's murderer was being given an early release from prison when his son read it in the Tuesday edition of the local newspaper. All around the State of Florida, O'Neal's experience was repeated as corrections officials unexpectedly granted early release to 300 murderers, rapists, robbers, and other violent inmates."

Florida required prison officials to grant inmates 20 days off for good behavior, 20 days off for every 30 days that they served without regard to their crimes on the outside or their behavior on the inside. As a result, 200 additional inmates will be released next Monday, and 2,700 prisoners will eventually be set free early under this approach.

The fellow that Mr. O'Neal heard about yesterday was a man named Garcia. He stabbed William O'Neal, the brother of Frank O'Neal, 36 times. William O'Neal was a grocery store manager—stabbed 36 times before this fellow then stole a TV set and VCR and left him dead. Now, Garcia has been granted early release.

I have talked about early release previously. Some of the things I have talked about have convinced me that the system itself is a system which just does not work.

A couple of weeks ago there was a District of Columbia police officer who was murdered in Prince Georges County, MD. His name was Oliver Wendell Smith, Jr. He was shot three times in the back of the head outside of his apartment. His wallet, pistol, and badge were stolen.

All three men now charged with this murder have long criminal records. One of them was free on bond on drugs and weapons charges and another was on pretrial release for burglary and assaulting another police officer. I have their records in this paper given to me by the police department at my request. These are people who should not have been on the streets to murder a policeman. These are people who should have been in prison. We knew who they were, but our country said go ahead to the streets. In Florida, 2,700 criminals will go to the streets.

I talked last year about the Jonathan Hall case. A man named James "Buck" Murray was sentenced to life imprisonment without parole for the murder of Jonathan Hall. Jonathan Hall was a 13-year-old boy from this area who was stabbed about 58 times and then left for dead in an icy pond. But when they found his body, he had grass and dirt between his fingers because he obviously had not immediately died from all those stab wounds. He, laying in that icy pond, had tried to pull himself out of the pond but died before he could.

Now, let me tell you about the guy who murdered him. James "Buck" Murray, in 1970, was sent to 20 years in prison for slashing the throat of a cab driver, stealing a cab and leaving the driver for dead. While in a Virginia prison, 3 years later, he abducted a young woman while on work release. He was then convicted of kidnaping and sentenced to 5 more years in prison. In 1991, he was convicted of murdering a fellow prisoner and sentenced to another 10 years behind bars, and in 1994, he was set free on mandatory parole with accumulated good time credits. A 13-year-old boy is dead because James "Buck" Murray, whom we knew to be a murderer, was put back on the street to live in Jonathan's neighborhood.

I also have talked about Bettina Pruckmayr in this Chamber. Bettina was 26 years old, by all accounts a wonderful, bright young woman, an attorney who came to the Washington, DC, area to work. On December 16, a year and a half ago, she was abducted in a carjacking and driven to an ATM machine in Washington, DC, and then fatally stabbed. Authorities charged 38-year-old Leo Gonzalez Wright with the murder. He was linked to that crime through a bank security photo taken at the ATM machine. He was stopped apparently in a stolen Mustang some days afterward. Mr. Wright should not have been on the streets. He was previously sentenced to 5 to 15 years for armed robbery, sentenced to 15 to 45 years to life for murder, released on parole, then served 16 years on a 20-year minimum sentence even though his actual sentence was 20 to 60 years.

I want to show my colleagues a chart about why these criminals are getting out of prison. It does not take Sherlock Holmes or Dick Tracy to figure out who is going to murder the next victim in our country. The average time spent in prison for committing a murder in America is just over 7 years. The average murderer spends 34 percent of their sentence in prison, and then is released early.

Kidnaping? The average kidnaper spends only 40 percent of his or her time behind bars and is released early. Robbery? It is 39 percent.

There is not a Member of the Senate whose life has not been touched by violent crime. My mother was killed in a manslaughter incident. I suspect that those of us who have personally been touched by violent crime never quite view violent crime the same way. For a family to receive a call, as have the families of those I have just described, to be told that their loved one is now dead in circumstances where you know that death should have been and could have been prevented, leaves an understanding something must change.

I want to show my colleagues something that I hope will shock the daylights out of everybody. We have, right now in prisons in America, 4,820 people serving in prison in our country for murders they committed while they were on parole, having been released early for another offense. In other words, our Government released murderers early, to say, "You are done with your sentence because we give you time off for good behavior, so go back to the streets. We need to give you 'good time' for good behavior because if we do not give you that we cannot manage you in prison." So the prison authorities give a carrot of getting out early to violent offenders so they can better manage them in prison, and then the question is: Who manages them when they hit the sidewalk? Who manages them when they are in the neighborhood? Who manages them on a dark block when they are prepared to commit another murder? These 4,820 families of murder victims have every right to ask this Government, to ask every State government, every judge, every State legislator, and, yes, the U.S. Congress, how dare you do this? By what right do you have the opportunity to turn out murderers and rapists and robbers back to our streets?

The question is, what do we do about it? Can we, should we, will we do something about it? I hope so. Mr. President, 4,820 people are in prison for having committed murders when they should have been in prison, 3,890 rapists committed rapes when they should have been in prison, and the list goes on.

What do we do? My proposal is very simple. By far, most of criminal justice is handled at the State and we do not control it. I understand that these decisions are made by State governments and by State criminal justice systems. But we have a connection to it by virtue of a wide range of resources that we provide to State criminal justice systems.

I propose that we say to State that we want you to do the following, and the amount of resources that we provide to your criminal justice system depends on your doing it. We want you to decide that there is a difference in the requirement to incarcerate violent versus nonviolent offenders. We want you to separate offenders, nonviolent and violent, and for violent offenders we want everyone in this country to get a very simple message: If you commit a violent offense and you are sentenced to prison, prison is your address until the end of your term. No parole,

no good time, no nothing. Your prison cell is your address until the end of your sentence. That is what I hope will happen across this country.

Until we get to that point, we are going to have stories as appeared in the Washington Post this morning—2,700 murderers, rapists, robbers, and other violent criminals will be released early because they have earned good time while in prison. Our country must decide to send a message to all Americans: If you commit a violent crime, you are going to serve your time in prison, and there is no excuse and there is no way out and there is no early out. You are going to serve your time in prison.

I have previously introduced legislation that also says to every State government in our country that if they had a violent prisoner behind bars and then decided that, because it is too costly to keep the violent prisoner there, he or she will be released early to Main Street, to the sidewalk, to the side street—if that particular prisoner then commits another crime while out on early release, that State government has no immunity from lawsuits from the victims. That State government has a responsibility to keep that violent criminal off the streets. If it chooses to put that violent criminal back on the streets early, and that violent criminal commits a crime, the State who put the violent criminal back on the streets should have responsibility to the victims.

I must say, while I feel passionate about this issue because my family has experienced the tragedy of violent crime, I am blessed to come from a State that does not have as much violent crime as many. North Dakota is a wonderful State in which to live. Oh, it is a little cold sometimes in the winter. Yes, it snowed yesterday, it is blowing a little today. But it is a wonderful State with wonderful people and it is blessed with a lower crime rate than some areas of the country. But we are not immune. There is no State geographical border or boundary that says violent crime stops here.

There used to be a wonderful woman named Donna Martz who would bring bus tours to Washington, DC. The tours would come here and come to the front steps of the Capitol and they would always ask us, because they were from North Dakota, to take a picture with them on the steps, and our congressional delegation would be delighted to do that. Donna was a wonderful and remarkable woman. On a Sunday morning, in a motel parking lot in Bismarck, ND, a quiet Sunday morning in a relatively crime free city, Donna Martz was abducted, kidnaped, put in the trunk of a car and driven through five or six States for a good number of days. She was later discovered, dead, shot to death in the desert in the southwest part of our country.

From a motel parking lot on a quiet Sunday morning as Donna prepared to drive to her home north of Bismarck, she was instead kidnaped, put in the trunk of a car, taken on a ride of terror and brutally murdered.

By whom? By a couple of folks from Pennsylvania. Strangers to the criminal justice system? Oh, no. People we knew were violent and just couldn't keep in jail. Time after time after time, you look at these statistics and understand that this is not some mysterious disease for which there is not a cure. We understand what is happening and we ought to understand how to respond to it. If we cannot send a message across this country that those who commit violent crimes need to spend their entire sentence in prison—and I might say to judges around this country, I am also a little tired of the sentences that are handed out. I am a little tired of the slap on the wrist. I want violent criminals to be treated appropriately by judges. People who are inherently violent and commit violent crimes ought to go to jail and spend a long time in jail with a sentence that is appropriate to that.

It is unforgivable in this country that the average murderer, the average person convicted of murder, is spending only 7 years in prison. That is unforgivable that our criminal justice system allows that to happen.

Again, we know what to do about that if we have the will. My friend, Senator CRAIG from Idaho, and I will introduce on Monday this legislation, and I hope very much that my colleagues will join us in saying this very simple message to all the States and all the people involved in the criminal justice system: Distinguish between violent and nonviolent offenders in our criminal justice system and say to every American, if you commit a violent crime, understand that you are going to spend all of your time in jail until the day that your sentence ends, and you are not going to get an hour off early. There is no good time, no parole, no help, no hope.

How do we do that? We do that through the resources we send to State and local governments that reward those States that adopt that provision, and, hopefully, State by State by State, we can develop a national policy that says to all Americans that we have begun to draw the line on violent crime, that we have sent a message to everyone who commits a violent crime that things have changed.

Mr. President, I hope, having given this long presentation, that some in the Congress will cosponsor, perhaps even the Presiding Officer, having listened at length, will cosponsor legislation of this type, and, one by one by one, we will achieve enough cosponsors on a bipartisan basis to this bill offered by a Democrat and a Republican. One by one by one, we will cosponsor, vote, and create a new law that does something good for this country.

Mr. President, with that, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

TRIBUTE TO SENATOR WENDELL FORD

Mr. DASCHLE. Mr. President, Harry Truman once said, "It is amazing what we can accomplish if we don't care who gets the credit."

That kind of selfless leadership is not found much in Washington anymore. But it is the essence of my great friend, WENDELL FORD.

Earlier this week, Senator FORD announced he would not seek a fifth term in this body.

For me, the news is bittersweet. I know how much Senator FORD looks forward to spending more time with his wife Jean and their family. I know how much he misses Kentucky, how much he simply just wants to go fishing with his grandchildren.

But I also know how much I will miss him and how much the Senate will miss him.

It is one of the traditions of this Senate that we carve our names inside our desks. Carved inside Senator FORD's desk is the name of one of this body's towering giants, Senator Henry Clay, "the Great Compromiser."

It is fitting that WENDELL FORD and Henry Clay should share the same desk—not just because they are both sons of Kentucky, but because they both understand that democracy requires compromise.

We can never compromise on principle. But we can—and we must—be willing to negotiate details if we are to accomplish anything of consequence.

That is one of many lessons I learned from WENDELL FORD.

It is ironic that WENDELL FORD comes from Kentucky, home of the great racehorses, because he is not a racehorse; he is a workhorse.

He has served the people of his State for more than 32 years as State senator, Lieutenant Governor, Governor, and now for the last 22 years as U.S. Senator. But he has always remained a public servant.

When he announced his decision not to seek reelection, Senator FORD said he loves this Senate as much as life itself.

The reason he loves it, though, is not because of the power or the glamour; those things have never really interested WENDELL FORD. He loves this institution because of the history that

has been made here and because of the potential that exists here.

The potential to help people.

To make the promise of America a reality for every American.

To include those who have been left out.

That is why WENDELL FORD loves this Senate.

His great pride is not that he has sat with Presidents, but that he can sit and talk with friends at every creek and in every holler in Kentucky, and that Kentucky is better and, frankly, America is better because of his efforts.

He is truly a leader among leaders. We need more people like WENDELL FORD in the U.S. Senate today.

During his years here, Senator FORD has distinguished himself as a leader in areas from energy to aviation to election reform.

As chairman of the Senate Rules and Administration Committee, he helped reduce Senate committee spending.

He has been a long and persistent advocate of a 2-year Federal budget to help this body look beyond the immediate and plan better for our future.

He was the chief force behind the creation of an independent Federal Aviation Administration.

He was a prime sponsor of the motor voter registration bill which has brought millions of new Americans into the electoral process.

He was the chief sponsor, in 1990, of a Democratic campaign finance reform package, and I fully expect him to spend the next year and a half working to make bipartisan finance in campaigns a reality.

As Democratic whip since 1990, WENDELL FORD found yet another way to serve his caucus and his country. Whenever there has been a need, he has stood ready to fill it. Every Democrat —indeed, every Member of the Senate— has his or her own story to tell about how WENDELL FORD has made a powerful and positive contribution to this institution and to the Nation.

On a personal note, let me say that WENDELL has been a very special friend to my wife Linda and me. He has been a constant source of wisdom, of strength and perspective. I must say, I could not possibly express the gratitude that I feel for the great blessing that that friendship has meant to me now over all these years.

Years from now, when we are all gone from here, a new Senator will open the desk now occupied by Senator FORD and see his name carved there. He or she will be reminded not just of what this Senate was, but what it can be. As he looks at the names of Henry Clay and WENDELL FORD, and recognizes the greatness that that desk represents now, not caring much about who gets the accomplishment credit but just who gets the work done, they, as we, will thank WENDELL FORD for his contribution, for his vision, for his commitment to public service, and for his friendship.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOMENICI. On behalf of the majority leader, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, March 13, the Federal debt stood at $5,362,035,571,060.06.

Five years ago, March 13, 1992, the Federal debt stood at $3,854,493,000,000.

Ten years ago, March 13, 1987, the Federal debt stood at $2,246,983,000,000.

Twenty-five years ago, March 13, 1982, the Federal debt stood at $428,380,000,000 which reflects a debt increase of nearly $5 trillion—$4,933,655,571,060.06—during the past 25 years.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1415. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–1416. A communication from the Executive Director of the Northeast Interstate Low-Level Radioactive Waste Commission, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Energy and Natural Resources.

EC–1417. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97-22, received on March 13, 1997; to the Committee on Finance.

EC–1418. A communication from the Chairman of the U.S. Parole Commission, Department of Justice, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–1419. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, 109 rules including a rule entitled "Establishment of Class E5 Airspace" received on March 13, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1420. A communication from the Acting Deputy Assistant, Administrator for Ocean Services and Coastal Zone Management, Department of Commerce, transmitting, pursuant to law, a rule entitled "Revision of Coastal Zone Management Program Regulations" (RIN0648-AJ24) received on March 13, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1421. A communication from the President and Chief Scout Executive of the Boy Scouts of America, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on the Judiciary.

EC–1422. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1423. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, the report entitled "1996 Judicial Business of the United States Courts"; to the Committee on the Judiciary.

EC–1424. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, transmitting, pursuant to law, two rules including a rule entitled "Indirect Food Additives" received on March 13, 1997; to the Committee on Labor and Human Resources.

EC–1425. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of the statement of policy; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 104. A bill to amend the Nuclear Waste Policy Act of 1982.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS:

S. 443. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste and for State control over transportation of municipal solid waste; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself and Mr. DODD):

S. 444. A bill to amend the Internal Revenue Code to impose a tax on the manufacture and importation of tires, and for other purposes; to the Committee on Finance.

S. 445. A bill to amend the Solid Waste Disposal Act to encourage recycling of waste tires and to abate tire dumps and tire stockpiles, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DODD:

S. 446. A bill to amend the Federal Election Campaign Act of 1971 to improve the enforcement capabilities of the Federal Election Commission, and for other purposes; to the Committee on Rules and Administration.

By Mr. NICKLES (for himself, Mr. INHOFE, Mr. HATCH, Mr. LEAHY, and Mr. GRASSLEY):

S. 447. A bill to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime, and for other purposes; read twice and placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS:

S. 443. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste and for State control over transportation of municipal solid waste; to the Committee on Environment and Public Works.

THE STATE AND LOCAL INTERSTATE WASTE CONTROL ACT OF 1997

Mr. BAUCUS. Mr. President, I rise to introduce the State and Local Interstate Waste Control Act of 1997. This bill will give our cities and States the authority they need to stop imports of trash coming from other States.

We have been working on this issue for 7 years. We have explored all options. We have held hearings, debated the issues. The Senate has passed interstate waste bills in each of the last four Congresses. It is time we put this issue behind us.

Anyone who has kept up with New York State's decision to close the Freshkils landfill knows why we must act and why we must act now. As my colleagues may be aware, the Freshkils landfill on Staten Island, which takes all of New York City's garbage, is closing.

What does that mean? That means 13,000 tons of garbage a day, almost 5 million tons a year, need a new home. It is hard to visualize how much garbage that is. What does it mean? It means about 1,200 trucks of garbage a day coming out of New York City, every one of them packed to the brim. Or, in other words, a convoy of trash trucks 12 miles long, 365 days a year—imagine that, a convoy of trash trucks 12 miles long each of 365 days a year coming out of New York City. That is what that means with the closure of Freshkils landfill on Staten Island because that garbage has to go someplace. Soon it will not go to Staten Island. Where is it going to go?

We have no idea where these trucks will go. One thing is clear. New York will have virtually no way to get rid of its trash when Freshkils does close in the year 2001. The entire State of New York can take only about 1,200 tons of New York City's trash each day and that means the rest, over 4 million tons a year, must go out of State.

What's worse, as far as I know, New York has not taken any steps to build or to grant permits to new in-State landfills. I guess it is far easier to send trash out of State than to fight the not-in-my-backyard opponents blocking new landfills and incinerators in New York State.

I do not want to single out New York. Many other great cities have similar troubles. Trash disposal is tough. But many States have taken the old adage "it is better to give than to receive" to the extreme. When it comes to trash, there is just too much giving and too much receiving, especially when those receiving the trash have no choice.

The fact is every city should take care of its own trash if possible. No city should be able to simply dump the problem on its neighbors. Yet that is precisely what could happen. Why? That is because today no State or town can stop shipments of garbage from other States. They do not have the authority.

A few years ago, Miles City, MT, my home State, faced the prospect of becoming a dumping ground for Minneapolis, MN, trash. The 5,000 citizens of Miles City had no say at all in whether a mega-fill landfill could go up in their backyards to take care of garbage from a city nearly 800 miles away in another State.

That is wrong. It is clearly wrong. It is unfair. Every town in America should have the right to say no. But today they do not have that right. And why is that? Every time a State law restricting out-of-State garbage imports has come up, they have been challenged in the courts. The courts have overturned those State laws based on the commerce clause of the Constitution. So we need a national law to preserve this basic part of self-determination, that is, the right to decide whether or not a community wants to accept out-of-State garbage.

The bill I introduce today strikes a balance that will work for every community, for every State. It is very similar to the bill the Senate and House nearly passed about 3 years ago. The cornerstone of my bill is the new authority it gives to all States and communities to restrict municipal solid waste imports.

First, every Governor may freeze future imports of garbage at the level his or her State received in 1993.

Second, the bill makes it illegal to ship any new imports of municipal waste unless the local community specifically wants it.

Third, to reduce pressure on local communities, my bill gives large importing States like Pennsylvania and Ohio the right to lower their imports.

Finally, some communities have built regional landfills and we respect those agreements as well.

My bill is about returning decisionmaking back to the people, giving people in importing States what should be their birthright, a chance to determine their own destiny.

I ask unanimous consent a summary of my bill, along with the text of the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "State and Local Government Interstate Waste Control Act of 1997".

SEC. 2. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding after section 4010 the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

"(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE WASTE.—

"(1) IN GENERAL.—(A) Except as provided in subsections (c), (e), and (i), effective January 1, 1998, a landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of such landfill or incinerator obtains explicit authorization (as part of a host community agreement) from the affected local government to receive the waste.

"(B) An authorization granted after enactment of this section pursuant to subparagraph (A) shall—

"(i) be granted by formal action at a meeting;

"(ii) be recorded in writing in the official record of the meeting; and

"(iii) remain in effect according to its terms.

"(C) An authorization granted pursuant to subparagraph (A) may specify terms and conditions, including an amount of out-of-State waste that an owner or operator may receive and the duration of the authorization.

"(D) Promptly, but not later than 90 days after such an authorization is granted, the affected local government shall notify the Governor, contiguous local governments, and any contiguous Indian tribes of an authorization granted under this subsection.

"(2) INFORMATION.—Prior to seeking an authorization to receive out-of-State municipal solid waste pursuant to this subsection, the owner or operator of the facility seeking such authorization shall provide (and make readily available to the Governor, each contiguous local government and Indian tribe, and any other interested person for inspection and copying) the following information:

"(A) A brief description of the facility, including, with respect to both the facility and any planned expansion of the facility, the size, ultimate waste capacity, and the anticipated monthly and yearly quantities (expressed in terms of volume) of waste to be handled.

"(B) A map of the facility site indicating location in relation to the local road system and topography and hydrogeological features. The map shall indicate any buffer zones to be acquired by the owner or operator as well as all facility units.

"(C) A description of the then current environmental characteristics of the site, a description of ground water use in the area (including identification of private wells and public drinking water sources), and a discussion of alterations that may be necessitated by, or occur as a result of, the facility.

"(D) A description of environmental controls typically required to be used on the site (pursuant to permit requirements), including run on or run off management (or both), air pollution control devices, source separation procedures (if any), methane monitoring and control, landfill covers, liners or leachate collection systems, and monitoring programs. In addition, the description shall include a description of any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals.

"(E) A description of site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(F) A list of all required Federal, State, and local permits.

"(G) Estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility. To the extent practicable, the information shall distinguish between employment statistics for preoperational and postoperational levels.

"(H) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner, the operator, and any subsidiary of the owner or operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective action and rehabilitation measures taken as a result of the proceedings.

"(I) Any information that is required by State or Federal law to be provided with respect to gifts and contributions made by the owner or operator.

"(J) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(3) NOTIFICATION.—Prior to taking formal action with respect to granting authorization to receive out-of-State municipal solid waste pursuant to this subsection, an affected local government shall—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before holding a hearing and again at least 15 days before holding the hearing, except where State law provides for an alternate form of public notification; and

"(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing.

"(b) ANNUAL STATE REPORT.—

"(1) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year. Within 120 days after enactment of this section and on June 1 of each year thereafter each such State shall publish and make available to the Administrator, the governor of the State of origin and the public a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

"(2) CONTENTS.—Each submission referred to in this subsection shall be such as would result in criminal penalties in case of false or misleading information. Such submission shall include the amount of waste received, the State of origin, the date of shipment, and the type, of out-of-State municipal solid waste. States making submissions referred to in this section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator.

"(3) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste. The list for any calendar year shall be published by July 1 of the following calendar year.

For purposes of developing the list required in this section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this section, nor to verify data provided by the State pursuant to this section, not to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this section shall be final and not subject to judicial review.

"(4) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

"(c) FREEZE.—

"(1) ANNUAL AMOUNT.—(A) Beginning January 1, 1998, except as provided in paragraph (2) and unless it would result in a violation of, or be inconsistent with, a host community agreement or permit specifically authorizing the owner or operator of a landfill or incinerator to accept out-of-State municipal solid waste at such landfill or incinerator, and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (3), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (e) that is subject to the jurisdiction of the Governor, to an annual amount equal to the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(B) At the request of an affected local government that has not executed a host community agreement, the Governor may limit the amount of out-of-State municipal solid waste received annually for disposal at the landfill or incinerator concerned to the amount described in subparagraph (A). No such limit may conflict with provisions of a permit specifically authorizing the owner or operator to accept, at the facility, out-of-State municipal solid waste.

"(C) A limit or prohibition under this section shall be treated as conflicting and inconsistent with a permit or host community agreement if—

"(i) the permit or host community agreement establishes a higher limit; or

"(ii) the permit or host community agreement does not establish any limit.

"(2) LIMITATION ON GOVERNOR'S AUTHORITY.—A Governor may not exercise the authority granted under this subsection in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (e) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(3) UNIFORMITY.—Any limitation imposed by a Governor under paragraph (1)(A)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin.

"(d) RATCHET.—

"(1) IN GENERAL.—Unless it would result in a violation of, or be inconsistent with, a host community agreement or permit specifically authorizing the owner or operator of a landfill or incinerator to accept out-of-State municipal solid waste at such landfill or incinerator, any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received for disposal at landfills and incinerators in the importing State as follows:

"(A) In calendar year 1998, 95 percent of the amount exported to the State in calendar year 1993.

"(B) In calendar years 1999 through 2003, 95 percent of the amount exported to the state in the previous year.

"(C) In calendar year 2004, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

"(D) No exporting State shall be required under this subparagraph to reduce its exports to any importing State below the proportionate amount established herein.

"(2) ADDITIONAL EXPORT LIMITS.—

"(A) PROHIBITION.—No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste more than the following amounts of municipal solid waste:

"(i) In calendar year 1998, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

"(ii) In calendar year 1999, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

"(iii) In calendar year 2000, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1999.

"(iv) In calendar year 2001, the greater of 1,100,00 tons or 90 percent of the amount exported to the State in calendar year 2000.

"(v) In calendar year 2002, 1,000,000 tons.

"(vi) In calendar year 2003, 750,000 tons.

"(vii) In calendar year 2004 or any calendar year thereafter, 550,000 tons.

"(B) ACTION BY GOVERNOR.—The Governor of an importing State may restrict levels of imports of municipal solid waste into that State to reflect the levels specified in subparagraph (A) if—

"(i) the Governor of the importing State has notified the Governor of the exporting State and the Administrator 12 months prior

to enforcement of the importing State's intention to impose the requirements of this section;

"(ii) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to the enforcement of this section; and

"(iii) the restrictions imposed by the Governor of the importing State are uniform at all facilities within the State receiving municipal solid waste from the exporting State.

"(3) DURATION.—The authority provided by paragraph (1) or (2) or both shall apply for as long as a State exceeds the levels allowable under paragraph (1) or (2), as the case may be.

"(4) UNIFORMITY.—Any restriction imposed by a State under paragraph (1) or (2)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin, in the case of States in violation of paragraph (1) or (2).

"(e) AUTHORIZATION NOT REQUIRED FOR CERTAIN FACILITIES.—

"(1) IN GENERAL.—The prohibition on the disposal of out-of-State municipal solid waste in subsection (a) shall not apply to landfills and incinerators that—

"(A) were in operation on the date of enactment of this section and received during calendar year 1993 documented shipments of out-of-State municipal solid waste, or

"(B) before the date of enactment of this section, the owner or operator entered into a host community agreement or received a permit specifically authorizing the owner or operator to accept at the landfill or incinerator municipal solid waste generated outside the State in which it is or will be located.

"(2) AVAILABILITY OF DOCUMENTATION.—The owner or operator of a landfill or incinerator that is exempt under paragraph (1) of this subsection from the requirements of subsection (a) shall provide to the State and affected local government, and make available for inspection by the public in the affected local community, a copy of the host community agreement or permit referenced in paragraph (1). The owner or operator may omit from such copy or other documentation any proprietary information, but shall ensure that at least the following information is apparent: the volume of out-of-State municipal solid waste received, the place of origin of the waste, and the duration of any relevant contract.

"(3) DENIED OR REVOKED PERMITS.—A landfill or incinerator may not receive for disposal or incineration out-of-State municipal solid waste in the absence of a host community agreement if the operating permit or license for the landfill or incinerator (or renewal thereof) was denied or revoked by the appropriate State agency before the date of enactment of this section unless such permit or license (or renewal) has been reinstated as of such date of enactment.

"(4) WASTE WITHIN BI-STATE METROPOLITAN STATISTICAL AREAS.—The owner or operator of a landfill or incinerator in a State may receive out-of-State municipal solid waste without obtaining authorization under subsection (a) from the affected local government if the out-of-State waste is generated within, and the landfill or incinerator is located within, the same bi-State level A metropolitan statistical area (as defined by the Office of Management and Budget and as listed by the Office of Management and Budget as of the date of enactment of this section) that contains two contiguous major cities each of which is in a different State.

"(f) NEEDS DETERMINATION.—Any comprehensive solid waste management plan adopted by an affected local government pursuant to Federal or State law may take into account local and regional needs for solid waste disposal capacity. Any implementation of such plan through the State permitting process may take into account local and regional needs for solid waste disposal capacity only in a manner that is not inconsistent with the provisions of this section.

"(g) COST RECOVERY SURCHARGE.—

"(1) AUTHORITY.—A State described in paragraph (2) may adopt a law and impose and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

"(2) APPLICABILITY.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

"(3) LIMITATION.—No such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that is being received at the facility under 1 or more contracts entered into after April 3, 1994, and before the date of enactment of this section.

"(4) AMOUNT OF SURCHARGE.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed $1 per ton of waste.

"(5) USE OF SURCHARGE COLLECTED.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivision that incur costs for which the surcharge is collected.

"(6) CONDITIONS.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

"(i) the State demonstrates a cost to the State arising from the processing or disposal within the State of a volume of municipal solid waste from a source outside the State;

"(ii) the surcharge is based on those costs to the State demonstrated under clause (i) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

"(iii) the surcharge is compensatory and is not discriminatory.

"(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax paid to the State or its political subdivision or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

"(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

"(7) DEFINITIONS.—As used in this subsection:

"(A) The term 'costs' means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs associated with technical assistance, data management, and collection of fees.

"(B) The term 'processing' means any activity to reduce the volume of solid waste or alter its chemical, biological or physical state, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

"(h) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.

"(i) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed—

"(1) to have any effect on State law relating to contracts;

"(2) to authorize or result in the violation or failure to perform the terms of a written, legally binding contract entered into before enactment of this section during the life of the contract as determined under State law; or

"(3) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators with the jurisdiction of a State may accept during a prescribed period: *Provided*, That such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

"(j) DEFINITIONS.—As used in this section:

"(1) AFFECTED LOCAL GOVERNMENT.—(A) For any landfill or incinerator, the term 'affected local government' means—

"(i) the public body authorized by State law to plan for the management of municipal solid waste, a majority of the members of which are elected officials, for the area in which the landfill or incinerator is located or proposed to be located; or

"(ii) if there is no such body created by State law—

"(I) the elected officials of the city, town, township, borough, county, or parish selected by the Governor and exercising primary responsibility over municipal solid waste management or the land or the use of land in the jurisdiction in which the facility is located or is proposed to be located; or

"(II) if a Governor fails to make a selection under subclause (I), and publish a notice regarding the selection, within 90 days after the date of enactment of this section, the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

The Governor shall publish a notice regarding the selection described in clause (ii).

"(B) Notwithstanding subparagraph (A), for purposes of host community agreements entered into before the date of enactment of this section (or before the date of publication of notice, in the case of subparagraph (A)(ii)), the term shall mean either the public body described in clause (i) or the elected officials of the city, town, township, borough, county, or parish exercising primary

responsibility for municipal solid waste management or the land or the use of land on which the facility is located or proposed to be located.

"(C) Two or more Governors of adjoining States may use the authority provided in section 1005(b) to enter into an agreement under which contiguous units of local government located in each of the adjoining States may act jointly as the affected local government for purposes of providing authorization under subsection (a) for municipal solid waste generated in 1 of the jurisdictions described in subparagraph (A) and received for disposal or incineration in another.

"(2) HOST COMMUNITY AGREEMENT.—The term 'host community agreement' means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out-of-State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State municipal solid waste is also included.

"(3) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public, from a residential source, or from a commercial, institutional, or industrial source (or any combination thereof) to the extent such waste is essentially the same as waste normally generated by households or was collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services, and regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d), such as paper, food, wood, yard wastes, plastics, leather, rubber, appliances, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include any of the following:

"(A) Any solid waste identified or listed as a hazardous waste under section 3001.

"(B) Any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act.

"(C) Recyclable materials that have been separated, at the source of the waste, from waste otherwise destined for disposal or that have been managed separately from waste destined for disposal.

"(D) Any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated.

"(E) Any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation.

"(F) Sewage sludge and residuals from any sewage treatment plant, including any sewage treatment plant required to be constructed in the State of Massachusetts pursuant to any court order issued against the Massachusetts Water Resources Authority.

"(G) Combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(H) Any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph).

"(I) Any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(4) OUT-OF-STATE MUNICIPAL SOLID WASTE.—The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is not consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States.

"(5) SPECIFICALLY AUTHORIZED; SPECIFICALLY AUTHORIZES.—The terms 'specifically authorized' and 'specifically authorizes' refer to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to 'any place of origin', reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources or locations outside the State.".

(b) TABLE OF CONTENTS.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4010 the following:

"Sec. 4011. Interstate transportation and disposal of municipal solid waste.".

SUMMARY OF STATE AND LOCAL GOVERNMENT INTERSTATE WASTE CONTROL ACT OF 1997

The State and Local Government Interstate Waste Control Act of 1997 provides the following new legal authority to every State to restrict out-of-State municipal solid waste.

Import Ban. Municipal solid waste imports are banned at landfills or incinerators that did not receive out-of-State municipal solid waste in 1993 unless the affected local community, as defined by the Governor or State law, agrees to accept the waste.

Import Freeze. A Governor may cap municipal solid waste imports at all landfills and incinerators at their 1993 import levels.

Export State Rachet. No state may export municipal solid waste to a landfill or an incinerator in any single state in excess of the following amounts: in 1998, 1.4 million tons or 90% of the amount exported to the state in 1993; in 1999, 1.3 million tons or 90% of the amount exported to the state in 1998; in 2000, 1.2 million tons or 90% of the amount exported to the state in 1999; in 2001, 1.1 million tons, or 90% of the amount exported to the state in 2000; in 2002, 1 million tons; in 2003, 750,000 tons; and in 2004 and each year thereafter, 550,000 tons.

Import State Ratchet. A Governor of any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may reduce the amount of imports to the following levels: in 1998, 95% of the amount exported to the State in 1993; in years 1999 through 2003, 95% of the amount exported to the State in the previous year; in 2004 and each year thereafter, 65% of the amount exported in 1993.

Protection of Host Community Ageements. The bill prohibits a Governor from limiting or prohibiting municipal solid waste imports to landfills or incinerators that have a host community agreement (as defined in the bill). Such agreements must expressly authorize the receipt of out-of-State municipal solid waste.

Needs Determination. The bill allows a State plan to take into account local and regional needs for solid waste disposal capacity through State permitting provided that it is implemented in a manner that is not inconsistent with the provisions of the bill.

Cost Recovery Surcharge. States that imposed a differential fee on the disposal of out-of-State municipal solid waste, on or before April 3, 1994, are allowed to impose a fee of no more than $1 per ton of municipal solid waste, as long as the differential fee is utilized to fund solid waste management programs administered by the State.

By Mr. CHAFEE (for himself and Mr. DODD):

S. 444. A bill to amend the Internal Revenue Code to impose a tax on the manufacture and importation of tires, and for other purposes; to the Committee on Finance.

TAX LEGISLATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCISE TAX ON MANUFACTURE AND IMPORTATION OF TIRES.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1986 (relating to environmental taxes) is amended by adding at the end the following:

"Subchapter E—Tax on Tires

"Sec. 4691. Imposition of tax.

"SEC. 4691. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is imposed a tax on the manufacture or importation of tires of any type, including solid and pneumatic tires.

"(b) AMOUNT OF TAX.—The amounts of the tax imposed by subsection (a) shall be 50 cents per tire.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the manufacturer or importer of the tire not later than 30 days after the end of each calendar quarter for each tire manufactured or imported during such quarter.

"(d) TIRES ON IMPORTED ARTICLES.—For purposes of subsection (a), if an article imported into the United States is equipped with tires, the importer of the article shall be treated as the importer of the tires with which such article is equipped.

"(e) EFFECTIVE DATE.—The tax imposed by this section shall apply to tires manufactured or imported after December 31, 1997, and before January 1, 2003.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 38 of such Code is

amended by adding after the item relating to subchapter D the following:

"Subchapter E. Tax on tires.".

SEC. 2. ESTABLISHMENT OF TIRE RECYCLING, ABATEMENT, AND DISPOSAL TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to the establishment of trust funds) is amended by adding after section 951 the following:

"SEC. 9512. WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Waste Tire Recycling, Abatement, and Disposal Trust Fund" consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are appropriated to the Waste Tire Recycling, Abatement, and Disposal Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4691 (relating to an assessment on motor vehicles tires); and

"(2) amounts received in the Treasury and collected under section 4011 of the Solid Waste Disposal Act.

"(c) EXPENDITURES.—Amounts in the Waste Tire Recycling, Abatement, and Disposal Trust Fund shall be available, as provided in appropriation Acts, only for the purpose of making expenditures to carry out the purposes of section 4011 of the Solid Waste Disposal Act.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Waste Tire Recycling, Abatement, and Disposal Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of section 4011(k) of the Solid Waste Disposal Act.

"(2) LIMITATION ON AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Waste Tire Recycling, Abatement, and Disposal Trust Fund which is outstanding at any one time shall not exceed an amount equal to the amount which the Secretary estimates will be equal to the sum of the amounts received from the tax imposed by section 4691 during any 2-year period.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made to the Waste Tire Recycling, Abatement, and Disposal Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Waste Tire Recycling, Abatement, and Disposal Trust Fund.

"(B) DATE FOR TERMINATION AND ADVANCES.—No advance shall be paid to the Trust Fund after December 31, 2001 and all advances to the Trust Fund shall be repaid on or before such date.

"(C) INTEREST RATE ON ADVANCES.—Interest on advances made to the Trust Fund shall be at a rate determined by the Secretary to be equal to the current market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and shall be compounded annually.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9511 the following:

"Sec. 9511. Waste Tire Recycling, Abatement, and Disposal Trust Fund.".

By Mr. CHAFEE (for himself and Mr. DODD):

S. 445. A bill to amend the Solid Waste Disposal Act to encourage recycling of waste tires and abate tire dumps and tire stockpiles, and for other purposes; to the Committee on Environment and Public Works.

THE WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL ACT OF 1997

Mr. CHAFEE. Mr. President, today I rise to introduce the Waste Tire Recycling, Abatement, and Disposal Act of 1997. This is really a reintroduction of legislation I first offered in 1991 to address a very serious environmental hazard.

What is that hazard I am talking about? It is the very real threat posed by improper disposal and stockpiling of used tires. Unfortunately, the threat posed by improper management of used, scrap tires is as great or greater than when I first introduced this legislation some 6 years ago.

The scope of the waste tire problem is enormous. Americans generate approximately—think of this—250 million scrap tires per year. That is a tire per person in the United States of America that is disposed of. Over time, approximately 3 billion—not million, 3 billion—of these tires have accumulated in the surface stockpiles throughout our country.

These used tires pose real threats to the health and welfare of communities. They are places where water is collected, thus mosquitoes breed, some of them encephalitis-carrying mosquitoes. They provide a home for rodents. They are bad news.

The threats proposed by piles of tires are great also. Few things are worse as far as fires go than to have a pile of rubber tires catch on fire. These can start from lightning or they can start from acts of vandalism. Burning tire piles produce a dense toxic smoke and also produce the oil byproducts that have gone into the making of the tires, and thus we have toxic hydrocarbon compounds. The hydrocarbons so released can soil the air, can soil the soil and, more important, can contaminate surface water and ground water. Often the piles of tires and the fires that result can burn for months and cost millions of dollars to attempt to extinguish. Putting out the fire may just be the tip of the iceberg as there have been released enough toxic substances that, as I say, go into the ground water and cause tremendous problems.

In my State of Rhode Island, the threat from tire piles is not just an abstraction. Smithfield, RI, is the reluctant host of a tire dump that reportedly is the second largest in the United States. Estimates of the size vary, but the so-called Davis tire pile is thought by our Department of Environmental Management to contain 10 million scrapped tires. This tire pile is close to our reservoir. It is only 4 miles from the principal source of drinking water in our State, the Scituate Reservoir. A major fire at the site could foul the reservoir through a fallout from dense soot and by contamination of the ground water aquifers.

Nationwide, waste tires are still accumulating in large stockpiles. Why? What happens? Where is the end of this? Well, why have the tire piles grown? There are several reasons.

First, landfills are reluctant to accept scrap tires.

Second, the nature of modern steel-belted radial tires makes it very difficult to recycle these into new ones. Once upon a time, old tires were retreaded or ground up to make new tires. The radial design and inexpensive radial tires imports have limited the market for retreads and eliminated the possibility of reusing ground rubber to make new tires.

The third reason is that the other markets for the beneficial reuse of this material have been slow to emerge. Scrap tires have some value. They contain a lot of Btu's, more Btu's per pound than most grades of coal and can be burned to produce electricity. Many folks operating tire dumps are hoping for higher energy prices so that there will be a windfall for these scrapped tires. However, there is significant opposition to new waste combustion facilities across our country. There is a reluctance to have these waste combustion facilities in one's community. So combustion seems now a less likely option to solve the tire problem.

And finally, where there are beneficial uses for scrap tires, the processors like what they call clean tires, ones that do not have dirt or rocks or gravel in them.

The waste tire management program that is contained in my legislation has three purposes. What am I trying to do? First, to assure that scrap tires are managed in a way that reduces the risk of fires and spread of disease.

Second, the bill would require the elimination of waste tire dumps within 4 years after enactment. It requires that the 3 billion tires in stockpiles across our country be recycled or burned or shredded or buried by the end of the year 2006.

And finally, the management program is intended to encourage markets for recycled material from tires.

Now, all of this would take place as an amendment to the Resource Conservation and Recovery Act, so-called RCRA, with which we are familiar in this body and is already legislation for the Nation. The traditional partnership program between EPA and RCRA through the States will lead to implementation of this program. In other words, it is a partnership between EPA and the States. The bill encourages States to adopt a program to safely manage existing tire piles. The bill authorizes grants to States to develop

and implement State programs to manage these piles of tires.

The bill will limit disease and fire problems. The fire threat will be reduced by including specifications for the size and spacing of these tire piles into smaller, more manageable units, separate them out so that if a fire does start, it does not spread to the entire dump of tires. It also requires provisions that waste tire dumps like the Davis site in my State are closed and the scrap tires shredded and recycled and safely disposed of within 4 years of enactment. So this could take place as soon as the year 2001. Other scrap tire stockpiles that are operating legally under a State permit will have until the year 2006, as I mentioned.

So all this is accomplished by imposing a 50-cent tax per tire, truck and passenger, on those manufactured or imported into the United States. It just applies to new tires. I want to inform my colleagues that this legislation, once enacted, will solve several solid waste management problems. So I urge my colleagues to join in the support of this.

As I noted earlier, Rhode Island is host to a site with approximately 10 million of these tires. It has been called the most serious environmental threat to our State. Even after some 250,000 have been removed in order to get at a Superfund site that is underneath these tires, a toxic waste disposal site that was then subsequently covered over by these tires, and even after the State removed some 1.2 million more tires, there still will be 8 million tires left in this Davis site. The threat posed by that is a very real one to my State, as I previously pointed out. So I urge my colleagues to join me in supporting this legislation. It can prevent environmental disasters from taking place. As chairman of the Committee on Environment and Public Works, I will exert every effort to see that these bills become law.

I thank the Chair and thank the distinguished Senator from Connecticut. He is very familiar with this because they have somewhat the same problem, perhaps not in the same magnitude as we have in our State, and they have a tire-shredding program in Oxford, CT.

So, Mr. President, I send to the desk two bills to accomplish my goal. One includes the tax, the other includes the cleanup efforts. Accompanying this is a summary of these bills.

Mr. DODD. Mr. President, before the chairman of the committee leaves the floor, I have been listening to his statement. I do not know how many others you have as cosponsors, but I would like to be listed as one.

Mr. CHAFEE. We are delighted.

Mr. DODD. This is one of the most serious problems we face, not only when there is stockpiling, but in other areas. I think most Americans, when they go by and see ponds drained down, know that one of the things that always show up is tires. It is a real pollution problem, beyond just the collection in one site.

I think the Senator from Rhode Island has offered a very creative and worthwhile suggestion that all of America will benefit from, so I commend him for the effort.

Mr. CHAFEE. I will ask that the distinguished Senator from Connecticut be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Waste Tire Recycling, Abatement, and Disposal Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States generates approximately 250,000,000 waste tires each year with over 3,000,000,000 waste tires stored or dumped in aboveground piles across the United States;

(2) current waste tire collection and disposal practices present a substantial threat to human health and the environment;

(3) waste tire piles are a breeding habitat for disease-carrying mosquitoes, rodents, and other pests and may be ignited causing potentially catastrophic fires;

(4) there are substantial opportunities for recycling and reuse of waste tires and tire-derived products, including tire retreading, asphalt pavement containing recycled rubber, rubber products, and fuel;

(5) although several States have established waste tire recycling programs and disposal requirements to protect human health and the environment, the efforts of individual States are often frustrated by the lack of comparable programs in neighboring States; and

(6) additional financial resources are necessary to encourage waste tire recycling and proper disposal and the abatement of existing waste tire dumps.

SEC. 3. WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following:

"SEC. 4011. WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL.

"(a) PURPOSES.—The purposes of this section are—

"(1) to encourage waste tire recycling;

"(2) to prevent disease and fires that may be associated with waste tire dumps and waste tire stockpiles;

"(3) to ensure that—

"(A) all waste tire dumps in the United States are closed and abated not later than 4 years after the date of enactment of this Act; and

"(B) all waste tire stockpiles are abated by not later than December 31, 2005; and

"(4) to otherwise regulate commerce in waste tires to protect human health and the environment.

"(b) DEFINITIONS.—In this section:

"(1) ABATE AND ABATEMENT.—The terms 'abate' and 'abatement' mean—

"(A) to remove waste tires from a waste tire dump or waste tire stockpile by processing or properly disposing of the tires on an enforceable schedule ensuring compliance with the prohibitions of subsection (c); or

"(B) action taken pursuant to subsection (i) or equivalent authority under a State program to process or properly dispose of waste tires.

"(2) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—The term 'asphalt pavement containing recycled rubber' has the meaning given the term in section 1038(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note; 105 Stat. 1990).

"(3) COLLECTION SITE.—The term 'collection site' means a facility, installation, building, or site (including all of the contiguous area under the control of a person or persons controlled by the same person) used for the storage or disposal of more than 400 waste tires but not including shredded tire material that has been properly disposed.

"(4) MARINE OR AGRICULTURAL PURPOSE.—The term 'marine or agricultural purpose' means the use of waste tires—

"(A) as bumpers on vessels or agricultural equipment;

"(B) as a ballast to maintain covers or structures on an agricultural site; or

"(C) for other marine or agricultural purposes specified by rule by the Administrator.

"(5) PROCESS.—The term 'process' means to produce or manufacture usable materials (including fuels) with real economic value from waste tires.

"(6) PROPERLY DISPOSED.—The term 'properly disposed' means the placement of shredded tire material as a solid waste into a landfill meeting the revised criteria established pursuant to section 4010(c).

"(7) RECYCLE.—The term 'recycle' means to process waste tires to produce usable materials other than fuels.

"(8) SHREDDED TIRE MATERIAL.—The term 'shredded tire material' means tire material resulting from tire shredding that produces pieces 4 square inches or less in size that do not hold water when stored in piles.

"(9) TIRE.—The term 'tire' means any pneumatic or solid tire, including a tire manufactured for use on any type of motor vehicle, construction or other off-road equipment, aircraft, or industrial machinery.

"(10) TIRE COLLECTOR.—The term 'tire collector' means a person that owns or operates a collection site.

"(11) TIRE DUMP.—The term 'tire dump' means a tire collection site without a collector or processor permit that is maintained, operated, used, or allowed to be used for the disposal, storing, or depositing of waste tires.

"(12) TIRE HAULER.—The term 'tire hauler' means a person engaged in picking up or transporting waste tires to a storage or disposal facility.

"(13) TIRE PROCESSOR.—The term 'tire processor' means a person that processes waste tires to produce or manufacture usable materials or to recover energy.

"(14) TIRE STOCKPILE.—The term 'tire stockpile' means a waste tire collection site operating pursuant to a permit issued by the Administrator or by a State with a program approved under subsection (f) at which shredded tire material from 50 or more waste tires is stored for future processing or disposal.

"(15) WASTE TIRE.—The term 'waste tire' means a tire that is no longer suitable for its original intended purpose because of wear,

damage, or defect and includes shredded tire material.

"(16) WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL TRUST FUND.—The term 'Waste Tire Recycling, Abatement, and Disposal Trust Fund' means the Waste Tire Recycling, Abatement, and Disposal Trust Fund established under section 9512 of the Internal Revenue Code of 1986.

"(c) PROHIBITIONS.—

"(1) DISPOSAL OF WHOLE WASTE TIRES ON LAND OR IN LANDFILLS.—

"(A) IN GENERAL.—Effective beginning 1 year after the date of enactment of this section, it shall be unlawful to dispose of a waste tire (other than shredded tire material) on land or in a landfill.

"(B) MODIFICATION OF CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Administrator shall modify the criteria established pursuant to section 4010(c) to reflect the prohibition established under subparagraph (A).

"(2) RECEIPT OF WASTE TIRES AT COLLECTION SITES.—Effective beginning 1 year after the date of enactment of this section, it shall be unlawful to receive any waste tire (not including shredded tire material) at any collection site unless, not later than 7 days after receipt, the waste tire is processed, converted to shredded tire material, or transferred to a business engaged in tire retreading.

"(3) WASTE TIRE PILES.—Effective beginning 1 year after the date of enactment of this section, it shall be unlawful to operate a collection site except in compliance with the following conditions applicable to a waste tire pile:

"(A) A waste tire pile shall be not more than 20 feet in height and, at the base, be not more than 50 feet in width and 200 feet in length.

"(B) A separation of not less than 50 feet shall be maintained between waste tire piles.

"(C) A waste tire pile shall be not less than 200 feet from the perimeter of the property and not less than 200 feet from any building.

"(D) Until shredded, waste tires in a pile shall be maintained to minimize mosquito breeding by cover or chemical treatment.

"(E) A waste tire pile shall be accessible to fire fighting equipment and any approach road to the pile shall be maintained in good condition.

"(F) A waste tire pile exceeding 2,500 waste tires shall be surrounded by a berm sufficient to contain any liquid that may be discharged as the result of a fire or fire fighting efforts.

"(G) A waste tire pile exceeding 2,500 waste tires shall be completely enclosed behind fencing.

"(H) A tire collector maintaining a collection site containing more than 2,500 waste tires shall prepare and maintain an emergency plan to respond to any fire or other event that may release pollutants or contaminants from the site.

"(I) Such other conditions as the Administrator may by rule require to protect human health and the environment, including compliance with National Fire Prevention Association 231–D standard for storage of rubber tires or similar fire prevention code to the extent the code is consistent with this section.

"(4) MAXIMUM NUMBER OF WASTE TIRES STORED.—Effective beginning 4 years after the date of enactment of this section, it shall be unlawful to store more than 1,500 waste tires for more than 7 days at a collection site other than as shredded tire material in waste tire stockpiles, except as provided under subsection (d).

"(5) STATE PROGRAMS.—Effective beginning 1 year after the effective date of a State program approved or established by the Administrator under this section, it shall be unlawful for any person to engage in any of the following actions except in compliance with a permit issued by the State under a program approved under subsection (f) or by the Administrator:

"(A) Transfer control over any waste tire for transportation to a collection site to any person other than a person operating under a permit as a tire hauler.

"(B) Operate or maintain any waste tire dump or deliver to or receive a waste tire for storage or disposal at a waste tire dump.

"(C) Deliver a waste tire to, or receive a waste tire at, any collection site that does not qualify as a waste tire stockpile.

"(D) Operate or maintain a waste tire stockpile or deliver to or receive a waste tire for storage or disposal at a waste tire stockpile.

"(6) SHREDDED TIRE MATERIAL.—

"(A) IN GENERAL.—Beginning January 1, 2006, subject to subparagraph (B), it shall be unlawful for any person—

"(i) to operate or maintain a waste tire stockpile containing shredded tire material from more than 2,500 waste tires; or

"(ii) in the case of a tire processor, to operate or maintain a waste tire stockpile containing more than 30 days supply of shredded tire material to be used as a feedstock within the process.

"(B) DISPOSAL IN MONOFILL FOR LATER RECOVERY.—Subparagraph (A) shall not prohibit the proper disposal of shredded tire material in a monofill for later recovery.

"(d) EXEMPTIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Administrator may by regulation exempt any of the following persons from any or all of the requirements of this section if the exemption is consistent with this Act and no threat of an adverse affect on human health or the environment will result from the exemption:

"(A) A tire retailer storing less than 2,500 waste tires at any collection site where new tires are sold or installed.

"(B) A tire retreader storing less than 2,500 waste tires or a quantity of waste tires equal to the number to be retreaded over a 30-day period, whichever is greater, at any collection site where tires are retreated.

"(C) A business that removes tires from vehicles and that stores less than 2,500 waste tires at any collection site where the removals occur.

"(D) A solid waste disposal facility storing less than 2,500 waste tires for future processing or disposal that—

"(i) are otherwise in compliance with the revised criteria promulgated pursuant to section 4010(c) pursuant to subsection (c)(1)(B); and

"(ii) have already received a permit under a State solid waste program imposing conditions and requirements to protect human health and the environment that are comparable to the conditions and requirements imposed by this section.

"(E) A person storing or using waste tires for a marine or agricultural purpose if the waste tires are used for the purpose not later than 180 days after the date the tire is removed from use.

"(2) ALTERNATIVE REQUIREMENTS.—The Administrator may—

"(A) impose alternative requirements for an exemption or partial exemption under paragraph (1), including requirements for fire prevention and disease control;

"(B) include the requirements in the guidance published under subsection (f)(2); and

"(C) impose the requirements on a person described in any of subparagraphs (A) through (D) of paragraph (1) as a condition for the exemption or partial exemption.

"(e) NOTIFICATION OF ADMINISTRATOR OR STATE AGENCY.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, each tire hauler, tire collector, and tire processor shall notify the Administrator, or the State agency designated pursuant to this section, of—

"(A) the name and business address of the tire hauler, tire collector, or tire processor;

"(B) the name and business address of the person or persons owning any property on which a tire collection site is located;

"(C) the location and a physical description of each collection site maintained by a tire collector;

"(D) the name of the person to contact in the event of an emergency involving waste tires located at each collection site;

"(E) an estimate of the number of waste tires that are present at each collection site;

"(F) an estimate by a tire collector or tire processor of the average number of waste tires that are received at each collection site maintained by the collector or processor each month and the sources from which waste tires are received;

"(G) an estimate by a tire hauler of the average number of waste tires that are delivered to each collection site each month;

"(H) a description of methods used at each collection site to shred, process, recycle, or dispose of waste tires;

"(I) a description of the fire prevention and disease control methods employed at each collection site;

"(J)(i) a certification signed by the owner or operator of each collection site that provides an assurance of compliance with paragraphs (2) and (3) of subsection (c) by the applicable dates; or

"(ii) if compliance with those paragraphs cannot be certified, an assurance that the collection site will be closed, and will be abated, not later than 1 year after the date of enactment of this section;

"(K) a statement that demonstrates the financial capacity of the tire collector, or the owner or operator of each collection site, to abate waste tires at the site and to respond to any fire or other event that may result in the release of a pollutant or contaminant from the site in an amount of not less than $1.00 for each tire stored, deposited, or otherwise located at the facility, other than a tire that has been properly disposed of at the site; and

"(L) such other information as the Administrator may require.

"(2) NOTIFICATION FORM.—

"(A) PUBLICATION.—Not later than 90 days after the date of enactment of this section, the Administrator shall—

"(i) publish a notification form or forms that will be used by tire haulers, tire collectors, and tire processors to comply with paragraph (1); and

"(ii) designate the State agencies that will receive the form or forms.

"(B) PAPERWORK REDUCTION.—Development and publication of the form shall not be subject to chapter 35 of title 44, United States Code.

"(C) COOPERATION WITH GOVERNORS.—Designation of State agencies to receive notification forms shall be carried out in cooperation with the Governor of each State.

"(f) STATE PROGRAMS.—

"(1) IN GENERAL.—Beginning 1 year after the date of enactment of this section, the Governor of a State may apply to the Administrator to implement a waste tire recycling, abatement, and disposal program under this subsection.

"(2) EPA GUIDANCE.—Not later than 1 year after the date of enactment of this section, the Administrator shall publish guidance establishing the minimum elements of a program to be administered under this section by a State agency that include the requirements of paragraphs (3), (4), and (5) and—

"(A) adequate authority to ensure compliance with and enforce the prohibitions established under subsection (c) and each of the other requirements of this Act applicable to a tire hauler, tire collector, or tire processor;

"(B) authority to abate any waste tire dump or waste tire stockpile within the State that is comparable to the authority granted the Administrator under subsection (i) and a plan to ensure that the dumps and stockpiles are abated by not later than the dates applicable under subsection (c);

"(C) a requirement that each tire hauler, tire collector, or tire processor operate pursuant to a permit issued by the State;

"(D) adequate authority to ensure that the fees imposed by paragraph (4) are collected by the State on the sale of new tires and by tire haulers, tire collectors, and tire processors on commerce in waste tires;

"(E) adequate personnel and funding to administer the program; and

"(F) such other requirements as the Administrator may prescribe.

"(3) PERMIT REQUIREMENTS.—The guidance published pursuant to paragraph (2) shall, with respect to a permit, provide, at a minimum, for—

"(A) a requirement that the State agency administering the program and issuing a permit have adequate authority to—

"(i) issue a permit that applies to, and ensure compliance by, all persons required to have a permit under this section, with applicable standards, regulations, or requirements;

"(ii) issue a permit for a fixed term of not to exceed 5 years;

"(iii) ensure that a permit require compliance with the prohibitions of subsection (c);

"(iv) terminate, modify, or revoke a permit for cause;

"(v) enforce a permit and the requirement to obtain a permit (including authority to recover a civil penalty in a maximum amount of not less than $10,000 per day for each violation) and to seek appropriate criminal penalties; and

"(vi) grant limited extensions of the term of a permit on a timely and complete application for renewal, pending final action on the renewal application by the State agency;

"(B) a requirement that the permitting authority establish and implement adequate procedures for processing permit applications expeditiously, and for public notice, including offering an opportunity for public comment and a hearing, on any permit application;

"(C) a requirement that the State conduct an inspection at each waste tire collection site before a permit is issued to operate the site as a waste tire stockpile;

"(D) a requirement that all permit applications, abatement plans, permits, and monitoring or compliance reports shall be made available to the public;

"(E) a requirement under State law that each person subject to the requirement to obtain a permit under the State program pay an annual fee, or the equivalent over some other period, that is sufficient to cover all reasonable costs of developing, administering, and enforcing the State permit program;

"(F) a requirement that—

"(i) each permit issued to a tire collector or processor for the operation of a waste tire stockpile include a numerical limitation on the waste tires that can be stored, processed, or disposed at the site; and

"(ii) the tire collector demonstrates financial responsibility for processing or abating all tires that may be accumulated up to the limit in the permit; and

"(G) a requirement that each permit for a waste tire stockpile contain a schedule for the abatement of all waste tires managed, stored, disposed, or otherwise deposited at the stockpile as expeditiously as practicable but not later than December 31, 2005, and containing annual incremental reductions in the quantity of waste tires stored at the site providing that 50 percent of the abatement shall be accomplished by not later than December 31, 2002.

"(4) FEES ON PURCHASE AND DISPOSAL.—

"(A) IN GENERAL.—The guidance published pursuant to paragraph (2) shall with respect to fees provide, at a minimum, for—

"(i) a requirement that the State impose a fee of not less than 50 cents on the sale of each new tire until such time as all waste tire dumps and waste tire stockpiles in the State have been abated;

"(ii) a requirement that a tipping fee of not less than $1 for each waste tire removed from a motor vehicle be paid by the owner or operator of the vehicle to the person or business removing the tire;

"(iii) a requirement that any tire hauler collecting tires from any person (including a business that removes tires and collects the fee required by subparagraph (B) or any other person including a household or commercial disposal site) charge a fee of not less than $1 for each waste tire collected; and

"(iv) a requirement that any tire collector or tire processor receiving waste tires charge the tire hauler, or any other person depositing tires at the collection site or processing site owned by the tire collector or tire processor, a fee of not less than $1 for each waste tire deposited at the site.

"(B) ADJUSTMENT OF FEES.—

"(i) IN GENERAL.—The Administrator—

"(I) shall from time to time, but not less often than once every 3 years, review the fees required in State programs pursuant to clauses (ii), (iii), and (iv) of subparagraph (A); and

"(II) may adjust the amount of the fees to reflect the economics of tire processing and recycling.

"(ii) INCORPORATION BY STATES.—If the Administrator adjusts the amount of a fee to be collected pursuant to clause (ii), (iii), or (iv) of subparagraph (A), not later than 1 year after the Administrator makes the adjustment, each State with an approved waste tire recycling, abatement, and disposal program shall revise its program to incorporate the adjustment.

"(C) ALTERNATIVE FEES.—A State may impose an alternative fee to the fee required by subparagraph (A)(i) (including a fee on a motor vehicle registration or transfer) if the State demonstrates to the Administrator that the alternative fee will provide resources sufficient to ensure abatement of all waste tire dumps and waste tire stockpiles in the State by not later than the dates required under subsection (c).

"(5) USES OF STATE REVENUE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the guidance published pursuant to paragraph (2) shall require that any revenues received by a State from the fee required by subparagraph (A)(i) or (C) of paragraph (4) be placed into a special fund and that appropriations from the fund be used only to—

"(i) abate waste tire dumps and waste tire stockpiles;

"(ii) make grants or loans, or enter into cooperative agreements with tire processors, to support recycling of waste tires;

"(iii) offset any additional cost associated with the procurement of asphalt pavement containing recycled rubber used in road construction by the State or a local government entity or in the procurement of other products made from recycled tires; or

"(iv) operate or provide grants to facilities that ensure compliance with the prohibitions of subsection (c) and the proper disposal of waste tires.

"(B) ADMINISTRATIVE EXPENSES.—Not more than 15 percent of the funds collected pursuant to subparagraph (A)(i) or (C) of paragraph (4) shall be used for administrative expenses of the State program.

"(6) APPLICATIONS.—

"(A) IN GENERAL.—Each State shall include in its program submission to the Administrator under this subsection a summary that includes—

"(i) the information collected pursuant to the notifications required by subsection (e); and

"(ii) to the maximum extent practicable, information on orphan tire collection sites for which no owner or operator submitted a notification form.

"(C) REPORT.—Not later than 3 years after the date of enactment of this section, the Administrator shall transmit to Congress a report on waste tire generation, management, collection, storage, recycling, and disposal based on the information included in State applications.

"(7) APPROVAL OR DISAPPROVAL OF STATE PROGRAMS.—

"(A) IN GENERAL.—A State program submitted under this section shall be deemed approved, unless disapproved by the Administrator.

"(B) GROUNDS FOR DISAPPROVAL.—The Administrator shall disapprove any program submitted by a State, if the Administrator determines that—

"(i) the authorities contained in the program are not adequate to ensure compliance by tire haulers, tire collectors, and tire processors within the State with the requirements of this section;

"(ii) adequate authority does not exist, or adequate resources are not available, to implement the program;

"(iii) the program does not provide adequate assurance that all waste tire dumps and waste tire stockpiles will be abated by the dates required under subsection (c); or

"(iv) the program is not otherwise in compliance with the guidance issued by the Administrator under paragraph (2) or is not likely to satisfy, in whole or in part, the purposes of this section.

"(C) NECESSARY REVISIONS OR MODIFICATIONS.—If the Administrator disapproves a State program, the Administrator shall notify the State of any revision or modification that is necessary to obtain approval.

"(D) RESUBMISSION.—The State may revise and resubmit the program for review and approval pursuant to this subsection.

"(E) NONCOMPLIANCE.—

"(i) IN GENERAL.—If the Administrator determines that a State is not administering a

program in accordance with the guidance published under paragraph (2) or the requirements of this section, the Administrator shall—

"(I) notify the State of the determination (including the reasons for the determination); and

"(II) if action that will ensure prompt compliance is not taken within 180 days after notification, disapprove the program.

"(ii) NOTIFICATION REQUIRED BEFORE DISAPPROVAL.—The Administrator shall not disapprove any program under this subparagraph unless the Administrator has notified the State of the disapproval (including the reasons for the disapproval) and made the disapproval (and reasons) public.

"(iii) FEDERAL PROGRAM.—At the time of disapproving a State program under this subparagraph, the Administrator shall establish a Federal program applicable in the State pursuant to subsection (h).

"(8) ENFORCEMENT.—This subsection shall not prevent the Administrator from enforcing any requirement of this section.

"(9) GRANTS AND TECHNICAL ASSISTANCE.—

"(A) GRANTS.—The Administrator may make a grant to a State from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to develop and implement a waste tire recycling, abatement, and disposal program under this section.

"(B) ASSISTANCE.—The Administrator may provide assistance to a State or local government agency, or to other persons on a cost recovery basis, with respect to techniques for waste tire recycling, processing, and abatement.

"(g) STATE AUTHORITY.—Nothing in this section shall prevent a State or political subdivision from imposing an additional or more stringent requirement on—

"(1) a tire hauler, tire collector, or tire processor;

"(2) the management, storage, processing, recycling, abatement, or disposal of waste tires; or

"(3) a waste tire collection site.

"(h) FEDERAL PROGRAM.—

"(1) IN GENERAL.—If a State has not submitted a waste tire recycling, abatement, and disposal program or is not adequately administering and enforcing such a program in accordance with this section, the Administrator shall establish, administer, and enforce a waste tire recycling, abatement, and disposal program for the State to ensure compliance with this section.

"(2) DATE OF ESTABLISHMENT.—

"(A) NO STATE PROGRAM.—If a State has not submitted a waste tire recycling, abatement, and disposal program by the date that is 3 years after the date of enactment of this section, the Administrator shall establish a program under paragraph (1) on that date.

"(B) WITHDRAWN APPROVAL.—The Administrator shall establish a program under paragraph (1) for a State for which approval is withdrawn under subsection (f)(7) on the date of disapproval.

"(3) PERMITS AND FEES.—

"(A) IN GENERAL.—The Administrator may issue a permit or collect a fee in lieu of a State pursuant to paragraphs (3) and (4) of subsection (f).

"(B) USE OF FUNDS.—Any amounts collected by the Administrator under subparagraph (A) shall be placed in the Waste Tire Recycling, Abatement, and Disposal Trust Fund for use under subsection (k).

"(i) ABATEMENT AND RESPONSE AUTHORITIES.—

"(1) IN GENERAL.—To ensure compliance with subsection (c), the Administrator may—

"(A) order the owner or operator of a waste tire dump, waste tire stockpile, or other collection site or any person that has transported waste tires to a waste tire dump, waste tire stockpile, or other collection site to abate the dump, stockpile, or site, including issuing an enforceable schedule for removal of waste tires from the dump, stockpile, or site; and

"(B) undertake action to abate a tire collection site using funds from the Waste Tire Recycling, Abatement, and Disposal Trust Fund.

"(2) CIVIL ACTION.—The Administrator may bring an action on behalf of the United States in the appropriate district court against the owner or operator of a waste tire dump, waste tire stockpile, or waste tire collection site or any other person that has transported waste tires to a waste tire dump, waste tire stockpile, or waste tire collection site to immediately restrain the person from operating, maintaining, or depositing waste tires at the dump, stockpile, or site or to take such other action as is necessary to protect human health or the environment.

"(3) ADDITIONAL ACTION.—If bringing an action under paragraph (2) is not sufficient to ensure prompt protection of human health or the environment, the Administrator may issue such orders as are necessary to protect human health and the environment.

"(4) NOTIFICATION.—Prior to taking any action under this subsection, the Administrator shall notify the appropriate State and local governments of the action proposed to be taken.

"(5) VIOLATIONS.—Any person that, without sufficient cause, willfully violates, or fails or refuses to comply with, an order of the Administrator under paragraph (3) may, in an action brought in the appropriate United States district court to enforce the order, be fined not more than $25,000 for each day during which the violation occurs or the failure to comply continues.

"(6) LIABILITY FOR ABATEMENT COSTS.—

"(A) IN GENERAL.—If the Administrator takes an abatement action under paragraph (1) for a waste tire collection site, the owner or operator of the site or any other person that has transported tires to the site shall be liable to the Administrator in the appropriate United States district court for all reasonable costs incurred in the abatement.

"(B) USE OF FUNDS.—Any funds recovered under subparagraph (A) shall be deposited in the Waste Tire Recycling, Abatement, and Disposal Trust Fund.

"(j) PUBLIC LANDS.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this section, after notice and opportunity for public comment, the Secretary of the Interior, the Administrator of the General Services Administration, and the head of each other Federal department, agency, or instrumentality that owns land on which a tire collection site is located shall, in consultation with the Administrator of the Environmental Protection Agency, prepare and commence to implement a plan to abate waste tire dumps and waste tire stockpiles that are located on land owned by the United States.

"(2) TIME LIMIT.—A plan under paragraph (1) shall ensure that any waste tires in waste tire dumps and waste tire stockpiles shall be properly disposed, recycled, or transferred to the operators of tire processing facilities as expeditiously as practicable and not later than December 31, 2002.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior, the Administrator of the General Services Administration, and the head of each other Federal department, agency, or instrumentality that owns land on which a tire collection site is located from the Waste Tire, Recycling, Abatement, and Disposal Trust Fund such sums as are necessary to carry out this subsection.

"(k) USE OF TRUST FUND APPROPRIATIONS.—

"(1) STATE GRANTS.—The Administrator may make a grant to a State to develop and implement a State program under subsection (f) and to carry out this section.

"(2) SHREDDING CAPACITY.—

"(A) IN GENERAL.—In making a grant under paragraph (1), the Administrator shall give highest priority to ensuring that adequate capacity is available to convert any waste tires newly removed from motor vehicles to shredded tire material beginning not later than 1 year after the date of enactment of this section.

"(B) EMERGENCY GRANTS.—The Administrator may make an emergency grant to a State, using the borrowing authority of the Waste Tire Recycling, Abatement, and Disposal Trust Fund, to ensure the shredding capacity described in subparagraph (A).

"(3) ABATEMENT ON PUBLIC LANDS.—The Secretary of the Treasury may transfer, subject to appropriations, amounts from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to the Secretary of the Interior, the Administrator of the General Services Administration, or the head of any other Federal department, agency, or instrumentality that owns land on which a waste tire collection site is located to abate the collection site.

"(4) FEDERAL PROCUREMENT.—The Secretary of the Treasury may transfer, subject to appropriations, amounts from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to the Secretary of Transportation or to the head of any other Federal department, agency, or instrumentality engaged in road building to offset any additional cost associated with the procurement of asphalt pavement containing recycled rubber for road construction, surfacing, or resurfacing.

"(5) FEDERAL PROGRAMS AND ABATEMENT ACTIONS.—There is authorized to be appropriated from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to the Administrator such funds as are necessary to—

"(A) implement and enforce any Federal program established under subsection (h); and

"(B) take any abatement action pursuant to subsection (i).

"(6) RESEARCH.—

"(A) GRANTS AND CONTRACTS.—The Administrator may use funds appropriated from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to make a grant or enter into a contract or cooperative agreement with a person to conduct research and development on—

"(i) waste tire processing and recycling technologies; or

"(ii) the use, performance, and marketability of products made from crumb rubber or other materials produced from waste tire processing.

"(B) RESEARCH PROGRAM.—

"(i) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation, shall conduct a program of research to determine—

"(I) the public health and environmental risks associated with the production and use of asphalt pavement containing recycled rubber;

"(II) the performance of asphalt pavement containing recycled rubber under various climate and use conditions; and

"(III) the degree to which asphalt pavement containing recycled rubber can be recycled.

"(ii) DATE OF COMPLETION.—The Administrator shall complete the research program under clause (i) not later than 3 years after the date of enactment of this section.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Waste Tire Recycling, Abatement, and Disposal Trust Fund such sums as are necessary to carry out this subsection.

"(l) ENFORCEMENT.—

"(1) COMPLIANCE ORDERS.—

"(A) ISSUANCE.—

"(i) IN GENERAL.—If (on the basis of any information) the Administrator determines that a person has violated, or is in violation of, any requirement or prohibition in effect under this section (including any requirement or prohibition in effect under regulations promulgated to carry out this section), the Administrator may—

"(I) issue an order assessing a civil penalty for any past or current violation, or requiring compliance immediately or within a specified time period, or both; or

"(II) commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

"(ii) NATURE OF VIOLATION.—Any order issued pursuant to clause (i)(I) shall state with reasonable specificity the nature of the violation.

"(B) PENALTIES.—

"(i) IN GENERAL.—Any penalty assessed in an order under this subsection shall not exceed $25,000 per day of noncompliance for each violation of a requirement or prohibition in effect under this section.

"(ii) FACTORS.—In assessing the penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(C) PUBLIC HEARINGS.—

"(i) IN GENERAL.—Any order issued under this paragraph shall become final unless, not later than 30 days after the issuance of the order, the persons named in the order request a public hearing.

"(ii) HEARING REQUIRED.—On receipt of the request, the Administrator shall promptly conduct a public hearing.

"(iii) ADMINISTRATION.—In connection with any proceeding under this paragraph, the Administrator may issue subpoenas for the production of relevant papers, books, and documents, and may promulgate rules for discovery.

"(D) NONCOMPLIANCE.—In the case of a final order under this paragraph requiring compliance with any requirement of this section (including a regulation), if a violator, without sufficient cause, fails to take corrective action within the time specified in the order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order.

"(2) CRIMINAL PENALTIES.—

"(A) IN GENERAL.—Any person that—

"(i) knowingly violates the requirements of this section (including a regulation); or

"(ii) knowingly omits material information or makes any false material statement or representation in any record, report, or other document filed, maintained, or used for purposes of compliance with this section (including a regulation);

shall, on conviction, be subject to a fine of not more than $50,000 for each day of violation or imprisonment for not to exceed 2 years, or both.

"(B) REPEAT OFFENSES.—If the conviction is for a violation committed after a first conviction of the person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(3) CIVIL PENALTIES.—

"(A) IN GENERAL.—Any person that violates any requirement of this section (including a regulation) shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

"(B) SEPARATE VIOLATIONS.—For purposes of subparagraph (A), each day of the violation shall constitute a separate violation.".

SEC. 4. ADDITIONAL PROCUREMENT GUIDELINES.

Section 6002(e) of the Solid Waste Disposal Act (42 U.S.C. 6963(e)) is amended by inserting after "October 1, 1985." the following: "Not later than December 31, 1999, the Administrator shall prepare final guidelines for rubber products (including asphalt pavement) containing crumb rubber derived by processing waste tires.".

SEC. 5. CONFORMING AMENDMENT.

The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. 6901) is amended by adding at the end of the items relating to subtitle D the following:

"Sec. 4011. Waste tire recycling, abatement, and disposal.".

SUMMARY OF THE WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL ACT OF 1997

Section 1 is the title of the bill: the Waste Tire Recycling, Abatement and Disposal Act of 1997.

Section 2 contains Congressional findings including: 1) 250 million tires are disposed each year and 3 billion have accumulated in tire piles; 2) current storage and disposal practices are threat to human health and the environment; and 3) there are opportunities to recycle tires.

Section 3 amends the Solid Waste Disposal Act (RCRA) adding a new section to subtitle D with several elements:

Purposes: 1) to encourage tire recycling; 2) to prevent disease and fires; 3) to require abatement (reduction in size of stockpiles to not more than 2500 tires in any pile) by the year 2006; and 4) to regulate commerce in scrap tires.

Definitions: The most important include: 1) a tire collection site is anything more than 400 tires; 2) shredding means to process tires to a size that won't hold water; 3) recycle does not include burning; 4) abate means to reduce the size of a tire pile to not more than 2500 shredded tires; and 5) properly disposed means shredded and placed in a landfill meeting subtitle D criteria.

Prohibitions: 1) disposal of whole tires in landfills is banned one year after enactment; 2) beginning one year after enactment, tires newly removed from a vehicle must be shredded or processed within 7 days; 3) also beginning one year after enactment, fire and disease prevention standards including maximum pile size and minimum spacing requirements are imposed on tire collection sites; 4) beginning four years after enactment all tires in existing piles must be shredded; 5) a year after state programs are adopted (which will generally be three years after enactment) all tire haulers and collectors must operate under state-issued permits; and 6) after the year 2006 tire piles bigger than 2500 tires are prohibited.

Exemptions: 1) retailers storing not more than 1500 tires at one site; 2) retreaders storing a 30-day supply of casings; 3) service stations and others who remove tires storing not more than 1500 tires at one site; 4) landfills storing not more than 2500 tires for processing or disposal; 5) marine and agricultural uses if used within 6 months.

Registration: All tire haulers, tire collectors and tire processors are required to notify state agencies within six months of enactment providing information on waste tire stockpiles and collection practices.

State Programs: EPA is to provide guidance within 12 months. Any State can apply to run a program which meets guidance. State programs must require permits for haulers, collectors and processors. States must collect fees of at least 50 cents for each new tire sold and use revenue to manage programs. States must have a plan providing for the abatement of all tire stockpiles. States must inspect sites before permits are granted. Tire collectors must show financial responsibility for abatement of tires stored (a bond in the amount of approximately $1 per tire allowed to be stored under permit). Permits must contain abatement schedules assuring that all tire piles are abated by year 2006. States must have authority to order abatement of tire piles. A tipping fee of $1 per tire is also to be charged to vehicle owner upon removal of used tire.

EPA Program: EPA is to establish program for each state which does not have one by the date three years after enactment. EPA's program would be identical to a State program.

Abatement Authority: EPA is given authority to order the abatement of a tire pile. EPA also is given authority to cleanup a tire pile and recover costs from the owner of the site.

Public Lands: The head of each federal agency owning land on which a tire stockpile is located is to develop an abatement plan.

Enforcement: EPA is given enforcement authority equivalent to that available under subtitle C of RCRA to take action against any person violating these new provisions.

Section 4 requires EPA to publish a federal procurement guideline for asphalt pavement containing recycled rubber not later than December 31, 1999.

Section 5 includes conforming amendments to RCRA.

SUMMARY OF TAX AMENDMENTS

Section 1 imposes a federal tax of 50 cents per tire on the sale of new tires. The tax would collect approximately $120 million per year and extends for a period of five years.

Section 2 creates a trust fund to receive the revenues from the new federal tire tax. The trust fund could be used to: (1) make grants to the states; (2) establish shredding capacity for newly removed tires; (3) abate tire piles on federal lands; (4) purchase asphalt pavement containing recycled rubber for federal projects; (5) finance abatement at orphan tire collection sites; and (6) conduct research on tire recycling technologies.

By Mr. NICKLES (for himself, Mr. INHOFE, Mr. HATCH, Mr. LEAHY, and Mr. GRASSLEY):

S. 447. A bill to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime, and for other purposes; read twice and placed on the calendar.

THE VICTIMS' RIGHTS CLARIFICATION ACT OF 1997

Mr. NICKLES. Mr. President, I rise today on behalf of victims of the Oklahoma City bombing and their families, as well as other victims of crime, to introduce the Victims Rights Clarification Act of 1997. The purpose of this legislation is to clarify the rights of victims of crime to attend and observe the trials of the accused and testify at the sentencing hearing. I want to express my sincere thanks to Senators HATCH, LEAHY, INHOFE, GRASSLEY, and KENNEDY for their hard work in crafting this bipartisan legislation.

During my tenure in the Senate, I have worked to ensure victims of crime have equal standing under the law with those who have violated the public trust. Progress has been made. The Victims' Bill of Rights, approved by Congress in 1990, guarantees that victims of crime may be present at public court proceedings, providing that a victim's attendance does not materially affect his or her testimony. In 1996, as part of the antiterrorism bill, I included a provision based on my Crime Victim Restitution Act, which entitles victims of crime to receive full financial compensation directly from the criminal in the form of mandatory restitution.

Too often, however, the rights of victims are sacrificed or forgotten. The Victims Rights Clarification Act of 1997 clarifies the intent of Congress with respect to the rights of victims to be present at trial and be heard during the sentencing phase of the proceedings. This piece of legislation further demonstrates the bipartisan will of Congress to protect the rights of victims, as well as the accused.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Victims' Rights Clarification Act of 1997".

SEC. 2. RIGHTS OF VICTIMS TO ATTEND AND OBSERVE TRIAL.

(a) IN GENERAL.—

(1) RIGHTS OF VICTIMS TO ATTEND AND OBSERVE TRIAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3510. Rights of victims to attend and observe trial

"(a) IN GENERAL.—Notwithstanding any statute, rule, or other provision of law, in any trial of a defendant accused of an offense, a United States district court shall not order the exclusion of any victim of the offense from the trial on the basis that the victim may, during the sentencing phase of the proceedings—

"(1) make a victim impact statement or present any victim impact information in relation to the sentence to be imposed on the defendant; or

"(2) testify as to the effect of the offense on the victim or the family of the victim.

"(b) DEFINITION OF VICTIM.—In this section, the term 'victim' has the same meaning as in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(e)(2)).".

(2) CLEARICAL AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3510. Rights of victims to attend and observe trial.".

(b) ADMISSIBILITY OF CERTAIN EVIDENCE.—Section 3593(c) of title 18, United States Code, is amended by inserting after "misleading the jury." the following: "For purposes of the preceding sentence, the fact that a victim (as that term is defined in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(e)(2))) attended or observed the trial in accordance with applicable statutes, rules, or other provisions of law, shall not be construed to create a danger of unfair prejudice, confusing the issues, or misleading the jury.".

(c) EFFECT ON PENDING CASES.—The amendments made by this section shall apply in any case that is pending on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I join as an original cosponsor of the Victims' Rights Clarification Act of 1997.

One of the most important rights that we can safeguard for crime victims is the right to be heard in connection with sentencing decisions for the perpetrators of the crimes that changed their lives. When I was privileged to serve as State's attorney for Chittenden County, I tried to inform crime victims of the status of cases and to involve them, not only as witnesses at trial, but during the sentencing proceedings as well. Lawyers call this a right of allocution. To victims, it is a right to be heard. A similarly important right for victims is the right to witness the trial of the accused.

Congress has addressed a victims' right of allocution and right to witness trials several times in recent years. In 1990, Congress passed the Victims' Rights and Restitution Act, commonly known as the victims bill of rights. This legislation expressly provides that crime victims shall have the right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

In the Violent Crime Control and Law Enforcement Act of 1994, Congress included several provisions granting victims the right of attendance at trials and allocution in sentencing hearings. For instance, the legislation provides for a specific right of allocution by amending rule 32 of the Federal Rules of Criminal Procedure, thereby requiring Federal judges at the sentencing for a crime of violence or sexual assault to address the victim personally if the victim is present at sentencing and to determine if the victim wishes to make a statement or present any information in relation to the sentence. The legislation also authorizes courts to hear victim impact testimony at capital sentencing proceedings, and requires courts to determine if the victim wishes to make a statement or present any information in relation to the sentence.

Finally, last year, Congress enacted the Televised Proceedings for Crime Victims Act as part of the Antiterrorism and Effective Death Penalty Act of 1996. Responding to the difficulties created for victims of the Oklahoma City bombing when the trial was moved to Denver, the statute was designed to provide a closed circuit feed back to the victims and their families in Oklahoma City.

The Supreme Court has also ruled that victim impact statements are permissible in death penalty cases. In the 1991 case Payne versus Tennessee, the Supreme Court said that a sentencing jury in a capital case may consider victim impact evidence relating to the victim's personal characteristics and the emotional impact of the murder on the victim's family. The Court made clear that it is an affront to the civilized members of the human race to say that at sentencing in a capital case, a parade of witnesses may praise the background, character, and good deeds of the defendant, but nothing may be said that bears upon the character of, or the harm imposed upon, the victims.

Although Congress and the Supreme Court has made progress over the last 20 years in recognizing crime victims' rights, we still have more to do, especially with regards to a victim's right of allocation and right to witness trials. Although I spoke of the need to do more with regards to these issues last year when Congress enacted the Justice for Victims of Terrorism Act, this need was highlighted by the recent district and appellate court rulings on motions in the Oklahoma City bombing cases. The courts ruled that the victims are categorically excluded from both watching the trial and providing victim impact statements. Thus the victims are faced with the excruciating dilemma of having to choose between attending the trial and testifying at the sentencing proceedings. If they sit outside the courtroom during the trial, they may never learn the details of how the justice system responded to this horrible crime. On the other hand, if they attend the trial, they will never be able to tell the jury the full extent of the suffering the crime has caused to them and to their families.

The law as it is, has been written by Congress and interpreted by the Supreme Court does not thrust this painful choice upon the victims. However, the recent district and appellate court rulings on motions reveal the need to clarify existing law. In this regard, let me specify what the Victims' Rights Clarification Act of 1997 would and would not do.

The law would:

Clarify that a court shall not exclude a victim from witnessing a trial on the basis that the victim may, during the sentencing phase of the proceedings, make a victim impact statement.

Clarify that a court shall not prohibit a victim from making a victim impact statement solely because the victim had witnessed the trial.

Just as importantly, the law would not:

Eliminate a judge's discretion to exclude a victim's testimony that creates unfair prejudice, confuses the issues, or misleads the jury.

Attempt to strip a defendant of his or her constitutional rights.

Overturn any final judicial rulings.

The defendants in the Oklahoma City bombing case have argued to the court that, despite the victims' rights laws, the court has the responsibility to safeguard against any identifiable risk that emotion could overwhelm reason when the victims provide their victim impact testimony. According to the defendants, the only way that the court can meet this responsibility is to provide the victims with the Hobson's choice of witnessing the trial or providing victim impact statements. However, to paraphrase Justice O'Connor's eloquent statement in the Payne versus Tennessee case, the possibility that evidence may in some cases be unduly inflammatory does not justify a prophylactic, constitutionally based rule that this evidence may never be admitted.

It is for this reason that I am joining my cosponsors to clarify what rights victims in this country should and do have. There is more that needs to be done in this regard, but with this bipartisan legislation, we are taking an important and timely step in the right direction.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 101

At the request of Mrs. BOXER, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 101, a bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence.

S. 139

At the request of Mr. FAIRCLOTH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 139, a bill to amend titles II and XVIII of the Social Security Act to prohibit the use of Social Security and Medicare trust funds for certain expenditures relating to union representatives at the Social Security Administration and the Department of Health and Human Services.

S. 235

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 235, a bill to amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites.

S. 317

At the request of Mr. CRAIG, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 317, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 370

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 370, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 371, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

ADDITIONAL STATEMENTS

NUCLEAR WASTE POLICY ACT OF 1997

• Mr. DORGAN. Mr. President, yesterday the Senate Energy Committee voted to approve the Nuclear Waste Policy Act of 1997, S. 104, which would establish the construction of an interim facility to store spent nuclear fuel and high-level nuclear waste produced by the electric industry and by the military.

As a member of the Energy Committee, I voted against S. 104 for two reasons. First, I think today's markup of this legislation was premature. Only 2 days ago the Senate voted to confirm the new head of the Energy Department, Secretary Federico Peña. Clearly Mr. Peña hasn't had an opportunity to fully examine this complex issue. He will need some additional time to study S. 104 and offer his views and recommendations about it. Second, I still have some concerns about whether this bill will facilitate or frustrate getting approval for a permanent disposal site of our Nation's spent nuclear fuel.

Having said this, I want my colleagues to understand that I think that this is an issue that needs immediate attention. The administration and Congress must sit down to negotiate a final solution to this problem as soon as possible. I hope some compromise can be reached that will allow me to vote for this legislation on the Senate floor.•

AMERICAN INDIAN TRANSPORTATION IMPROVEMENT ACT OF 1997

• Mr. JOHNSON. Mr. President, I want to express my strong support for the American Indian Transportation Improvement Act introduced by Senator DOMENICI. I am an original cosponsor of this bill because I feel strongly that the BIA and other Federal agencies must prioritize programs which develop infrastructure on reservations, and that the Congress must match those commitments with adequate funding. I know first hand the desperate need for road improvement and repair on South Dakota's Indian reservations, and I believe increased funding for road infrastructure must be a national priority.

There are nine federally recognized tribes in South Dakota, whose members collectively make up one of the largest Native American populations in any State. At the same time, South Dakota has 3 of the 10 poorest counties in the Nation, all of which are within reservation boundaries. Unemployment on these extremely rural reservations averages above 50 percent. Yet economic depression on rural Indian reservations is not unique to my State. I strongly believe that road infrastructure is an integral and most basic component to economic development for Indian and non-Indian communities alike.

Senator DOMENICI's initiative increases funding for reservation roads through the existing Indian Reservation Roads [IRR] Program. This program returns a portion of the gasoline tax, paid by every Indian who buys gasoline, to Indian tribes for the design and construction of BIA roads. This bill also expands opportunities under the IRR Program and related ISTEA programs to improve the transportation system on our Nation's Indian reservations, including bridge construction, transit systems, highway enhancements, scenic byways, and Indian technical centers.

In South Dakota, BIA proposed funding for 1997 is 24 percent lower than 1996. Yet abysmal road conditions continue to worsen. There are nearly 8,000 miles of roads in my State, 1,156 miles of which are on reservations. Of these

roads, 80 percent are in need of complete replacement. Another 10 percent are in need of significant repair. Only 10 percent of all the roads on South Dakota reservations are rated in good condition. Road statistics like these are repeated in state after state, and I believe immediate action must be taken.

I encourage my colleagues to join me in supporting this bill for a number of reasons, the most serious of which is health and safety. From 1992 to 1996, the death rate on South Dakota reservation roads was three times as high as the rate on non-reservation roads. Children who ride buses to school are put at great risk as these buses travel over dilapidated road infrastructure, while ambulances and other emergency vehicles have to be routed around otherwise direct routes to and from emergency situations because of road conditions. The extra moments, even hours added to these emergency runs put human life in jeopardy. No community in this country should be forced to travel on roads as damaged and dangerous as those on reservations in my State.

Mr. President, I am extremely pleased that my colleague has recognized the national need to improve roads in Indian country. Senator DOMENICI has developed this legislation in close consultation with Indian leaders, and I am hopeful that the Senate will move the American Indian Transportation Improvement Act forward as quickly as possible.●

TRIBUTE TO SUSAN HOECHSTETTER

● Mr. INOUYE. Mr. President, I rise today to pay tribute to Susan Nan Hoechstetter, a social worker with whom I have been privileged to work with for many years. Throughout her 13 years of employment with National Association of Social Workers [NASW], Sue Hoechstetter tenaciously promoted the social work profession and advocated for social policy that recognizes the responsible role of government in assisting individuals, families, and communities to work together and address their common needs.

When Sue first began representing the interests of social workers before the U.S. Congress, very few Federal statutes directly acknowledged the significant role of professional social workers in providing health, mental health, and counseling services. Now, however, through Sue's able leadership, all Federal insurance programs that authorize the provision of mental health care services, including Medicare, the Federal Employee Health Benefits Program, and the Civilian Health and Medical Program of the Uniformed Services, recognize the ability of clinical social workers to independently diagnose and treat mental illness. Additionally, clinical social workers are now identified as health professionals through title VII of the Public Health Service Act, and school social workers are acknowledged as key members of the pupil services team through various educational programs.

During Sue Hoechstetter's tenure, the National Association of Social Workers also provided leadership in promoting progressive social policy. Family and medical leave, health care reform, improved staffing and training in the child welfare system, and the development of Federal managed care standards are just a few of the proactive policies that NASW advocated under her direction.

In recent years, Sue and the association have devoted considerable energy in an attempt to preserve the entitlement for children under the Aid to Families with Dependent Children Program, as well as to preserve the financial and program integrity of the Medicaid and Medicare Programs.

Sue Hoechstetter has never represented a high-powered firm, has never enjoyed the luxury of having a host of assistants to support her work, and has never received great financial reward for her efforts. I suspect that Sue would not recognize an alligator shoe if she saw one. Yet, I believe it is absolutely essential that Sue Hoechstetter and others who share Sue's values continue their work educating the Congress. Our representative form of government requires the active engagement of competing interests in the formulation of Federal policy, and I am very glad that professionals like Sue Hoechstetter promote social policies that support the common good and help people in need participate in the process.

I am deeply saddened that Sue will no longer be representing the interests of the National Association of Social Workers. Her contribution to the association has been considerable. However, I am very pleased that Sue will continue to pursue her interests in increasing citizen participation in the political process. I wish her the very best.●

CONGRATULATIONS TO THE REGENT-NEW ENGLAND BASKETBALL TEAM

● Mr. DORGAN. Mr. President, the Regent, North Dakota basketball team is going to the State basketball tournament for the first time ever.

Well, technically, it's the Regent-New England basketball team, but it's all the same to me. These young boys from Hettinger County who play on the Regent-New England basketball team have made this Regent High School graduate enormously proud.

You don't have to come from a big school to have big talent or a big heart and that's what these young men are proving.

I don't know who will win the North Dakota State class B tournament but I did want to share my excitement about the achievements of Curt Honeyman and his team of outstanding young men.

There are no mountains in Hettinger County, but these young men found a goal and have climbed their personal mountain to reach their pinnacle of success. It is a thrill they and everyone around the county will never forget, and I wanted to share that thrill with my colleagues in the Senate.●

COMMENDING THE CHAIR OF THE U.S. SURFACE TRANSPORTATION BOARD, LINDA J. MORGAN

● Mr. HOLLINGS. Mr. President, today, I am pleased to commend Linda J. Morgan, the Chair of the U.S. Surface Transportation Board [STB], for her leadership in facilitating the discussions that have led to a possible settlement among the three major eastern rail carriers that would end the bitter, long, and costly merger fight between the Norfolk Southern, CSX, and Conrail Railroads. For months the Nation has witnessed the spectacle of these three giants trying to gain an advantage over each other and access to almost 4 billion dollars' worth of annual rail freight. This merger fight was shaping up to be a battle costing millions of dollars with no end in sight. And certainly there was no guarantee that the American consumer would be better at the end of the struggle than they were at its beginning.

Ms. Morgan's service to this Nation is twofold. First, there was her simple, and very wise, suggestion to the parties that a settlement between the parties ending this fight would probably be preferable to having the Government step in and end the fight. Second, there was her astute suggestion that gaining rail competition in the Northeast should be an important goal in any final decision by the STB, which must approve any merger.

It is important to note that many interested parties appreciated her candor and attention to the people's welfare. State agencies in the Northeast had urged a negotiated solution that would encourage more competition. Certainly, shippers have long seen the need for more competition in moving cargo through the largest North American consumer markets. The Journal of Commerce was moved to editorialize on [March 6, 1997] that the agreement spurred by Chairman Morgan's comment "makes good business sense" and that "Ms. Morgan showed a deft touch, hinting at regulators' views without compromising her objectivity about a case that hadn't yet been filed."

Let me close by saying that Linda Morgan's deft touch has given consumers and shippers some hope that

they will come out ahead after any merger. It's a view that was articulated in The Journal of Commerce: "The deal * * * will provide effective rail freight competition into New York * * * (and) offers more competitive service in other cities—among them Baltimore, Philadelphia, Wilmington and Pittsburgh * * *" I offer my thanks to Ms. Morgan, a fine example of a dedicated and effective public servant.●

DOMESTIC VIOLENCE IDENTIFICATION AND REFERRAL ACT

● Mr. WYDEN. Mr. President, I am pleased to join with Senator BOXER as a cosponsor of the Domestic Violence Identification and Referral Act. With the passage of the Violence Against Women Act in the 1994 crime bill, Congress addressed the need to educate law enforcement, judges, and prosecutors about how to deal with situations of domestic violence. However, in this important piece of legislation, Congress overlooked a major resource in the battle against domestic violence—our health care professionals. Doctors, nurses, and others in health professions are often the first to see the effects of battering and are often in the best position to stop the cycle of violence before it goes any further.

While domestic violence is the leading cause of injury to women, many doctors, and nurses are unaware or unsure of the symptoms, treatment, and means of preventing domestic violence. In 1992, a Surgeon General's report cited a study showing 35 percent of the women who visit hospital emergency rooms were there because of ongoing abuse. Additionally, the study found that only 5 percent of the abused women were actually identified as such. A 1995 issue of the Journal of the American Medical Association [JAMA] determined that little had changed since the earlier study and that doctors still failed to identify women who were injured as a result of domestic violence.

In a June 17, 1992, issue of the Journal of the American Medical Association Dr. Richard F. Jones III, the then-president of the American College of Obstetricians and Gynecologists [ACOG], related how for years he had missed the obvious signs of physical abuse in women patients. He had been asking the wrong questions and failed to elicit the true cause of their injuries. Only when he started asking these women directly if they were victims of physical abuse did the truth emerge.

Similarly, according to an article in a November 1995 issue of American Medicine, 60 percent of those graduating from medical schools felt that an insufficient amount of attention within the medical school curriculum was given to the issue of family and domestic violence.

Since Senator BOXER, Representative MORELLA, and I introduced the Domestic Violence Identification and Referral Act in 1992, the medical community has taken many steps to increase outreach and education on the issue of domestic violence. However, as these studies show, the fact is that when it comes to domestic violence, the bruises and abrasions get dressed, but the cause goes unaddressed. Doctors miss the signs of domestic violence early on and then often miss them again when they have become catastrophic.

The Domestic Violence Identification and Referral Act provides incentives for medical schools to provide significant training in identifying, treating and referring victims of domestic violence. The legislation will give preference in awarding grants under the health professions education titles of the Public Health Services Act to schools that have incorporated training in domestic violence into their curriculum.

The title VII and title VIII grant programs, singled out in the bill, are demonstration grants and makeup but a small part of the hundreds of millions of Federal dollars that go to medical schools for state-of-the-art medical education. It seems to me to be self-evident that if we give medical schools this sort of funding, they should at least give some time to addressing the No. 1 cause of injury to women.

In drafting this legislation we worked closely with doctors, nurses, medical schools, and domestic violence groups. The Association of American Medical Colleges, American College of Obstetricians and Gynecologists, the American Medical Women's Association, the National Coalition Against Domestic Violence, AYUDA, NOW Legal Defense Fund, American Nurses Association, National League For Nursing, Association of Reproductive Health Professionals, and the Family Violence Prevention Fund, among others, have voiced their support for this legislation.

I thank the many groups that assisted in drafting this legislation and Senator BOXER for her leadership in this matter. I urge the Congress to pass this important piece of legislation this year.●

● Mrs. BOXER. Mr. President, Senator WYDEN has been added as a cosponsor to S. 101, the Domestic Violence Identification and Referral Act.

Senator WYDEN is the original author of this legislation, of which I am proud to be the Senate sponsor. He wrote it while he was a member of the House of Representatives, and has been the driving force behind this very important legislation. I was honored in the 103d Congress, when he asked me to introduce the Senate companion version.

Since Senator WYDEN's election to the Senate last year, we have worked hand-in-hand on this legislation. I look forward to working together in the 105th Congress to finally bring this bill to passage.●

NATIONAL CHARACTER COUNTS WEEK

● Mr. DORGAN. Mr. President, I am pleased to support the National Character Counts Week resolution. Senator DOMENICI has introduced this resolution, which declares October 19 through 25, 1997, as National Character Counts Week, on behalf of myself and the bipartisan membership of the Senate Character Counts Group. I especially want to thank Senator DOMENICI for his continuing good leadership on Character Counts.

The national Character Counts Coalition, an alliance of hundreds of groups, communities, and individuals, was born out of a meeting of some of our country's best thinkers and doers in Colorado less than 5 years ago. These folks had many of the concerns that I know a lot of us here in the Senate share about the wrong direction that many of our young people seem to be headed.

Character Counts calls on all of us, educators, church and youth leaders, community and business leaders, and most importantly parents, to reinforce six basic values, or pillars of character. These values are so important and basic that I do not think anyone could question them. They are: trustworthiness, respect, responsibility, fairness, caring, and citizenship.

I have two young children, so I know firsthand how difficult it is for kids to make the right choices when they are constantly being bombarded by messages from our popular culture that it is cool to drink alcohol or smoke or use vulgar language. To counteract these messages, it is more important than ever that we instill in our young people the integrity and good character to stand up for what is right. Children are not born with good character. They learn by example, and if they have good role models all around them, I am confident they will make correct choices for themselves.

As evidence that children are eager, even hungry, to do the right thing if given the proper reinforcement, I want to hold up the story of 11-year-old Herbert Tarvin. Many of you may remember hearing on the news about the Brinks armored car that crashed in January of this year in one of Miami, Florida's poorest neighborhoods. Herbert was walking to school that day when he passed the wrecked truck, and like many of the adults all around him, he gave into the temptation to grab some of the money from the truck. Herbert's newfound riches totaled 85 cents. In all, some $300,000 in cash and coins was stolen from the truck.

Fortunately, when Herbert got to school, he had a teacher who cared enough to urge her students to turn

over any money they had taken. Herbert's conscience prompted him to turn his 85-cent windfall over to his teacher, who returned it to the Brinks Co. Herbert says he knows he should not have taken the money to begin with because his mom and teacher have taught him better than that, but I am proud of him for ultimately returning the money.

Many of the adults around Herbert did not act so honorably. After weeks of public pleas and investigations, only about $300 of the $300,000 taken from the truck has been returned. Even so, this story is heartening to me because I think it shows that children want to do the right thing when faced with difficult situations. As Herbert's mom and teacher have done, we all have a role in ensuring that all children are given the ethical tools they need to make difficult choices in today's world. Quite simply, that is what the Character Counts Program is all about.

I have found that young people in North Dakota are excited about Character Counts. Nearly a year ago, I brought together a group of about three dozen North Dakotans, including several young people, to introduce them to the Character Counts Program. Out of that meeting was born a Character Counts initiative in North Dakota, under the leadership of 4–H youth specialist Geri Bosch.

In the year since then, Geri and her army of college- and high school-aged 4–H youth ambassadors have been traveling throughout North Dakota to share the Character Counts concept with children, youth, and adults alike, and Character Counts is spreading like wildfire in my State. In December alone, nearly 200 concerned adults participated in Character Counts training so that they could take Character Counts back to their communities. Even more exciting, more than 1,000 young people in North Dakota have participated in the Character Counts Program directly in some way throughout the last year, and countless other kids have been indirectly influenced for the better through the teachers, youth leaders, clergy members, and other concerned citizens who touch their lives daily.

I have been proud to play some small role in supporting Character Counts in North Dakota and our country. Through these kinds of efforts, we can build a better future for our kids, and I want to again pledge my continued help and support for teaching the pillars of good character.●

MEASURE PLACED ON THE CALENDAR—S. 447

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senate bill 447, introduced earlier today by Senator NICKLES, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

Mr. DOMENICI. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 25, Senate Resolution 56.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 56) designating March 25, 1997, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOMENICI. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 56) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 56

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was invested in the people;

Whereas the Founding Fathers of the United States of America drew heavily uopn the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas the founders of the modern Greek state modeled their government after that of the United States in an effort to best imitate their ancient democracy;

Whereas Greece is one of the only three nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict this century;

Whereas the heroism displayed in the historic world War II Battle of Crete epitomized Greece's sacrifice for freedom and democracy as it presented the Axis land war with its first major setback and set off a chain of events which significantly affected the outcome of World War II.

Whereas these and other ideals have forged a close bond between our two nations and their peoples;

Whereas March 25, 1997 marks the 176th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations were born: Now, therefore, be it

Resolved, That March 25, 1997 is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." The President is requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

IRISH-AMERICAN HERITAGE MONTH

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 59, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 59) designating the month of March of each year as "Irish American Heritage Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. KENNEDY. Mr. President, it is a privilege to join 50 of my colleagues as sponsors of this Senate resolution to designate the month of March each year as "Irish-American Heritage Month."

Irish-Americans have contributed to every aspect of American life—business and labor, agriculture and industry, education and the arts, science and religion, at every level of government, and in all aspects of public service.

From the days of the earliest settlers to our shores, immigrants from Ireland have found hope and opportunity and new lives in America. They powered our industrial revolution. They took jobs as laborers. They dug the canals. They built the railroads that took America to the West. Even today, it is said that under every railroad tie, an Irishman is buried.

In all of these ways and many more, Irish-Americans have contributed immensely to our Nation and they continue to do so. In a very real sense, their greatest legacy is our modern Nation.

Today, over 44 million Americans are of Irish descent. They are proud of America and proud of their Irish heritage, and it is fitting that we pass this resolution honoring this extraordinary aspect of our history.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the resolution and its preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be placed in the RECORD in the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 59) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, are as follows:

S. RES. 59

Whereas by 1776 nearly 300,000 persons had emigrated to the United States from Ireland;

Whereas following the Revolutionary War victory of Washington's troops at Yorktown, a French Major General reported that Congress and America owed its existence, and

possibly its preservation, to the support of the Irish;

Whereas at least 8 signers of the Declaration of Independence were of Irish origin;

Whereas more than 200 Irish Americans have been awarded the Congressional Medal of Honor;

Whereas 19 Presidents of the United States proudly claim Irish heritage, including the first president, George Washington;

Whereas 44 million American citizens are of Irish descent; and

Whereas the Irish and their descendants have contributed greatly to the enrichment of all aspects of life in the United States, including military and government service, science, education, art, agriculture, business, industry, and athletics: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of March of each year as "Irish American Heritage Month"; and

(2) requests that the President issue a proclamation designating the month of March of each year as "Irish American heritage Month" and calling on the people of the United States to observe the month with appropriate ceremonies and activities.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations: No. 35, and all nominations placed on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, that any statements relating to the nominations appear at this point in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

DEPARTMENT OF STATE

Princeton Nathan Lyman, of Maryland, a career member of the Senior Foreign Service, class of career minister, to be an Assistant Secretary of State.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Terrence J. Brown, and ending Terrence P. Tiffany, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 21, 1997.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR MONDAY, MARCH 17, 1997

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday, March 17.

I further ask that on Monday, immediately following the prayer, the routine requests for the morning hour be granted, and there then will be a period of morning business until the hour of 1 p.m., with Senators permitted to speak therein for 5 minutes each, with the following exceptions: Senator THOMAS, in control of 30 minutes; Senator DASCHLE, or his designee, in control of 30 minutes.

I further ask that the Senate then immediately resume consideration of Senate Joint Resolution 22, the independent counsel resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I ask unanimous consent that, on Tuesday, March 18, Senator BYRD be recognized from 11 o'clock to 11:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOMENICI. Mr. President, for the information of all Senators, on Monday, following morning business, the Senate will resume consideration of Senate Joint Resolution 22, the independent counsel resolution. There will be no rollcall votes during Monday's session of the Senate. As a reminder, the next rollcall vote will occur at 2:45 p.m. on Tuesday, March 18, on the passage of Senate Joint Resolution 18, the Hollings resolution on a constitutional amendment on campaign funding. On Monday, under the consent agreement with regard to the independent counsel resolution, amendments may be offered starting at 3 p.m. The majority leader will continue discussions with the Democratic leader in the hope that they will be able to reach agreement on this very important resolution, so that we may be able to complete action on it by midweek. The majority leader thanks all our colleagues for their cooperation.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 93–415, as amended by Public Law 102–586, announces the appointment of Dr. Larry K. Brendtro, of South Dakota, to serve a 2-year term on the Coordinating Council on Juvenile Justice and Delinquency Prevention.

ADJOURNMENT UNTIL MONDAY, MARCH 17, 1997

Mr. DOMENICI. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:25 p.m., adjourned until Monday, March 17, 1997, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 14, 1997:

DEPARTMENT OF STATE

PRINCETON NATHAN LYMAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AN ASSISTANT SECRETARY OF STATE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING TERRENCE J. BROWN, AND ENDING TERRENCE P. TIFFANY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 21, 1997.